

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

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**Direct Loan Making  
3-FLP (Revision 2)**

**Amendment 41**

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

*William S. Cobb*

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**Amendment Transmittal**

**A Reasons for Amendment**

Corrects the spelling of “down payment” throughout the handbook.

Subparagraphs 45 B and C have been amended to provide the new timeframes for reviewing complete and incomplete applications.

Subparagraph 71 A has been amended to update owner/operator requirements for entity applicants.

Subparagraph 91 E has been amended to increase the limits for non-essential assets from \$5,000 to \$15,000.

Subparagraph 95 A has been amended to provide the conditions when a new real estate appraisal is not required.

Subparagraph 132 C has been amended to update the owner/operator requirements of entity applicants requesting an FO loan.

Subparagraph 174 C has been amended to update the authorized repayment terms for conservation loans.

Subparagraph 201 C has been amended to provide operating loan funds may be used for fixtures.

Subparagraphs 204 B and D have been amended to update the authorized repayment terms for OL.

Subparagraph 229 C has been amended to update the authorized repayment terms for youth loans.

Subparagraph 245 D has been amended to update the authorized repayment terms for EM for annual operating expenses.

**Amendment Transmittal (Continued)**

**A Reasons for Amendment (Continued)**

Subparagraph 472 B has been amended to clarify when the agency may waive previous borrower training requirements.

Exhibit 2 has been amended to update the family farm definition.

Exhibit 26 has been amended to update the reference to the RD Business Center.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
	3-13 through 3-18 4-13, 4-14 5-1, 5-2 5-2.5, 5-2.6 5-13, 5-14 7-4.5, 7-4.6 7-41 through 7-44 8-5 through 8-30 9-1, 9-2 9-13 through 9-44 9-77, 9-78 10-23, 10-24 18-3, 18-4	1, page 5 2, pages 7-12 26, pages 1, 2 page 3

**44 Youth Loan Requests****A Complete Youth Loan Application**

A youth loan application is submitted by using FSA-2301, which includes the majority of information for a youth loan application. See Part 9, Section 3 for more information on youth loans.

**[7 CFR 764.51(e)] For a youth loan request:**

**(1) The applicant must submit items (1), (7), and (9) of paragraph (b) of this section (paragraph 42).**

These items are the following:

- completed FSA-2301
- environmental information
- farm operating plan (when FSA-2301 is not considered sufficient).

**(2) Applicants 18 years or older, must also provide items (11) and (12) of paragraph (b) of this section (paragraph 42).**

These items are the following:

- payment to FSA for ordering a credit report
- verification of all debts.

**(3) The Agency may require a youth loan applicant to submit any other information listed in paragraph (b) of this section (paragraph 42) as needed to make a determination on the loan application.**

## 45 Processing Loan Applications

### A Application Review

Upon receiving a loan application, the agency official shall:

- insert date application was received on FSA-2001, FSA-2301, FSA-2314, or FSA-2330

**Note:** DLS is the official loan application date record.

- determine whether application is complete
- enter loan application information into DLS
- assemble loan application according to 32-AS
- obtain credit report
- obtain CAIVRS
- complete FSA-850, or Environmental Assessment, whichever is applicable, as provided by 1-EQ.

If an application is received and the applicant has not completed the section that identifies race, ethnicity, or gender of the applicant or members of the entity, the application will be processed as a non-SDA.

**Exception:** An application from an existing SDA, who has previously provided the documentation needed to qualify as SDA, does not need to resubmit qualifying information.

**Note:** Race, ethnicity, and gender determinations completed as observed by a FSA employee will not be used to qualify an applicant for SDA funding.

### B Notification of Incomplete Application

**\*--[7 CFR 764.52(a)] Within 7 calendar days of receipt of an incomplete application, the Agency will provide the applicant written notice of any additional information which must be provided. The applicant must provide the additional information within 15 calendar days of the date of this notice.**

**Note:** If the 15<sup>th</sup> calendar day is a Saturday, Sunday, Federal holiday, or any other day--\* the office is closed, FSA will accept the applicant's additional application information the next business day.

## 45 Processing Loan Applications (Continued)

**B Notification of Incomplete Application (Continued)**

\*--The authorized agency official must notify the applicant in writing within 7 calendar days, after receiving the incomplete application, by using FSA-2304. FSA-2304 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received
- offer assistance to the applicant if they do not understand what is required or are having difficulty obtaining the required information
- establish a due date for receiving the information of 15 calendar days from the date of FSA-2304.

**Exception:** An EM application will not be withdrawn if the information required under 7 CFR 764.51(b)(14) (see subparagraph 42 A) is the only information that has not been received. Specifically, if accurate disaster year production information is not available, because of the producer having not completed harvest, the application will be held for a reasonable time to allow for the information to become available.

**Note:** FSA has determined that a reasonable time period is 3 months after the normal conclusion of harvest.

For EM's, insert the following on FSA-2304 for disaster year production information only.

\*--“We must receive the following information by (add 15 calendar days to the date the authorized agency official determines to be 3 months after the normal conclusion of harvest) so that we can continue processing your request for assistance.”

If information is needed from other USDA agencies, the agency official will inform those agencies and the applicant of the information needed, and note the date of the request in FBP. For OL applications, the agency official will request that the information be returned within 15 calendar days of receiving the request.

**Note:** If it is clear that the application will be rejected for obvious eligibility reasons, the authorized agency official shall provide an application rejection letter with appropriate appeal or review rights.

## 45 Processing Loan Applications (Continued)

**B Notification of Incomplete Application (Continued)**

**[7 CFR 764.52(b)] If the additional information is not received, the Agency will provide written notice that the application will be withdrawn if the information is not received \*--within 15 calendar days of the date of this second notice.**

If the 15<sup>th</sup> calendar day is a Saturday, Sunday, Federal holiday, or any other day the office is closed, FSA will accept the applicant's additional application information the next business day.

If the applicant does not respond or does not supply all of the information requested within the 15 calendar day period specified on FSA-2304, the authorized agency official must immediately provide FSA-2305 by regular mail or hand delivery. FSA-2305 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received and unless the applicant supplies the required information, the application will be withdrawn
- establish a due date for receiving the information of 15 calendar days from the date of--\* FSA-2305
- contain the ECOA statement according to 1-FLP, paragraph 41.

The authorized agency official must notify DD weekly, by e-mail, the names, dates, and reasons FSA-2305 was sent to applicants.

FSA will withdraw the application if the additional material is not provided.

Applicants will be sent FSA-2306 to inform them that their application has been withdrawn. FSA-2306 will be provided by regular mail or hand delivery.

The withdrawn application will be maintained according to 32-AS.

## 45 Processing Loan Applications (Continued)

**C Processing of Complete Application**

[7 CFR 764.53] Upon receiving a complete loan application, the Agency will:

[7 CFR 764.53(a)] Consider the loan application in the order received, based on the date the application was determined to be complete; and

[7 CFR 764.53(b)] Provide written notice to the applicant that the application is complete.

\*--The authorized agency official must notify the applicant in writing within 7 calendar days--\* after receiving the complete application using FSA-2307.

**Note:** Use DLS to record the date the application was determined to be complete.

[7 CFR 764.53(d)] Except for CL requests, if based on the Agency's review of the application, it appears the applicant's credit needs could be met through the guaranteed loan program, the Agency will assist the applicant in securing guaranteed loan assistance under the market placement program as specified in 762.110(h) of this chapter (2-FLP, paragraph 72).

**D Applicant Withdraws Application**

The applicant may request that a loan application be withdrawn at any time during the loan making process.

If the applicant makes the request:

- in writing, the authorized agency official will send FSA-2306 and withdraw the application
- by phone, the authorized agency official will send FSA-2306 to the applicant that, per their request, the loan application will be withdrawn unless the applicant contacts the County Office within 10 calendar days of the date of FSA-2306.

**Note:** The authorized agency official shall maintain withdrawn applications according to 32-AS.

**E Reactivating Withdrawn Application**

A withdrawn application may not be reactivated. The applicant must file a new application.

**Notes:** Any information in the withdrawn file that is still current may be included with the new application. Information less than 90 calendar days old, unless noted otherwise, is considered current.

Information that does not change, such as college transcripts, will be considered current and should be used as part of any future application.

**45 Processing Loan Applications (Continued)**

**F Loan Processing When Civil Rights Complaint Has Been Filed**

The filing of a civil rights complaint does not stop loan processing activity. If an application for assistance has been filed, that request must be processed according to FSA instructions.

Because failure to advise an applicant of their ineligibility may be considered an adverse action in itself, the authorized agency official should timely process all applications, in those instances where a discrimination complaint is filed, and notify the applicant of the decision. The authorized agency official must fully explain to the applicant the basis for the unfavorable eligibility or feasibility decision according to paragraph 356.

**G Priority Consideration for Prevailing Claimants**

\*--See Exhibit 14 for guidance on processing loan applications for claimants.--\*

**46-60 (Reserved)**



69 **Managerial Ability (Continued)****A General Requirement (Continued)**

To meet the managerial ability requirement through farming experience alone, the applicant may have:

- been an owner of a farm business with management and operator responsibilities for at least 1 entire production and marketing cycle
- been employed as a migrant farm worker and has been elevated to a leadership or foreperson position for at least 1 entire production and marketing cycle and whose responsibilities include crop and field management, livestock health, breeding supervision, labor management or hiring, or general farm management
- been employed as a farm manager or farm management consultant for at least 1 entire production and marketing cycle
- raised on a farm and held significant responsibility for day-to-day management decisions for at least 1 entire production and marketing cycle
- obtained and successfully repaid one FSA Youth-OL.

The applicant may document this experience through FSA farm records or similar documentation.

Applicants should be able to demonstrate that they have carried out their operation according to standard farming practices in the area including keeping accurate records of income and expenses, income tax records, and breeding statistics, as applicable.

**\*--[7 CFR 764.101(i)(4)] Alternatives for ML's made for OL purposes. Applicants for ML's made for OL purposes, also may demonstrate managerial ability by one of the--\***  
**following:**

**[7 CFR 764.101(i)(4)(i)] Certification of a past participation with an agriculture-related organization, such as, but not limited to, 4-H Club, FFA, Beginning Farmers and**  
**\*--Rancher Development Programs, Community Based Organizations, or Tribal Youth Organizations that demonstrates experience in a related enterprise, or--\***

**[7 CFR 764.101(i)(4)(ii)] A self-directed apprenticeship combined with either prior sufficient experience working on a farm or significant small business management experience. As a condition of receiving the loan, the self-directed apprenticeship requires that the applicant seek, receive, and apply guidance from a qualified person during the first cycle of production and marketing typical for the applicant's operation, and agree to form development partnership with the applicant to share knowledge, skills, information, and perspective of agriculture to foster the applicant's development of technical skills and management ability.**

## 69 Managerial Ability (Continued)

## A General Requirement (Continued)

**Example:** An application seeking DOL-ML financing to produce tomatoes to sell at a farmers market knows a local farmer that produces salad green and this farmer is willing to mentor the applicant during the first production cycle. The farmer's mentorship of the applicant can include advice and applied knowledge on crop planning, supply sources, pest and disease management, and outlets for marketing and sales. The applicant is the responsible party throughout the mentorship for obtaining guidance from the mentor.

**Note:** The mentor does not have to have the exact same type of operation as the applicant, but should be related, i.e. the applicant for a tomato DOL-ML should not have a dairy farmer as his mentor unless he also has produce experience.

## 70 Borrower Training

## A General Requirement

**[7 CFR 764.101(j)]** The applicant must agree to meet the training requirements in **subpart K of this part** (Part 18, Section 1). Borrower training requirements for Streamlined CL applicants will be automatically waived without further documentation. All other applicants are required to complete FSA-2370 according to subparagraph 472 B, only if they are requesting a borrower training waiver.

## 71 Owner/Operator of a Family Farm

## A General Requirement

**[7 CFR 764.101(k)(1)]** Except for CL, the applicant must be the operator of a family farm after the loan is closed.

**[7 CFR 764.101(k)(2)]** For an entity applicant, if the entity members holding a majority interest are:

(i) Related by blood or marriage, at least one member must be the operator of a family farm;

\*--(ii) Not related by blood or marriage, the entity members holding at least 50%--\* interest must be the operators of a family farm.

**[7 CFR 764.101(k)(3)]** Except for EM loans, the collective interests of the members may be larger than a family farm only if:

- (i) Each member's ownership interest is not larger than a family farm;
- (ii) All of the members of the entity are related by blood or marriage; and
- (iii) All of the members are or will become operators of the family farm; and

## Part 5 Loan Security

## 91 Security Requirements

## A General

**[7 CFR 764.103(a)] Security requirements specific to each loan program are outlined in subparts D through I of this part (Parts 7 through 10), and**

For the specific requirements for each direct loan program, see:

- paragraph 135 for FO security
- \*--paragraph 154 for Down Payment loan security--\*
- paragraph 175 for CL security
- paragraph 205 for OL security
- paragraph 230 for youth loan security
- paragraph 246 for EM security.

Advice on obtaining security will be obtained from OGC when necessary, especially on obtaining security when a life estate is involved.

## B Adequate Security

**[7 CFR 764.103(b)] All loans must be secured by assets having a security value of at least 100 percent of the loan amount, except for EM loans as provided in subpart I of this part (Part 10). If the applicant's assets do not provide adequate security, the Agency may accept:**

**[7 CFR 764.103(b)(1)] A pledge of security from a third party; or**

In cases where non-applicants will pledge the full value of chattel security, the authorized agency official will obtain CCC-10 and FSA-2028 from the nonapplicant authorizing FSA to file the required instrument to perfect FSA's lien.

In unique situations, such as areas where land is held in communal rather than fee simple title, or where DOJ lacks jurisdiction, it may be necessary for SED, with advice from OGC, to issue a State supplement.

See subparagraph 416 C for further guidance on chattel security pledged by multiple owners.

**[7 CFR 764.103(b)(2)] Interests in property not owned by the applicant (such as leases that provide a mortgageable value, water rights, easements, mineral rights, and royalties).**

The value of adequate security is established according to subparagraph 95 A.

## 91 Security Requirements (Continued)

## C Additional Security

**[7 CFR 764.103(c)] An additional amount of security up to 150 percent of the loan amount will be taken when available, except for down payment loans, ML's made for purposes other than annual operating, and youth loans.**

In the case of an entity, when all the security held by the entity does not meet the requirement for additional security up to 150 percent of the loan amount, FSA will take liens on personal assets held by individual members, as security to the extent that the members have suitable personal assets. The entity will select and notify FSA which asset it prefers to offer as security for the loan.

The authorized agency official will take security with a value that exceeds 150 percent of the loan amount if it is not practical to separate the property. Notably, real estate is often not practical to separate because of extensive and costly processes at the local level. Additionally, it is recognized that a blanket lien on all livestock or all equipment will also result in a security margin exceeding 150 percent as it is typically not practical to separate these types of chattels as livestock replacements and equipment turnover are common on many operations. Loan approval officials need to take steps to ensure the Agency is not taking more than 150 percent security when avoidable. Standard chattel lien statements providing a blanket lien on all chattels should be altered if necessary.

**Example 1:** An annual operating loan of \$100,000 is secured primarily by crops. The applicant has equity in livestock valued at \$30,000 and equity in equipment valued at \$60,000. The loan approval official should perfect the Agency's lien on crops and equipment, and ensure livestock is not taken as security for the Agency loan.

**Example 2:** A term operating loan of \$200,000 is secured primarily by equipment with equity valued at \$350,000. The loan approval official should perfect the Agency's lien on equipment only, and ensure other chattels, including crops, are not taken as security.

The value of additional security is established according to subparagraph 95 B.

## 91 Security Requirements (Continued)

**D Choice of Security**

**[7 CFR 764.103(d)] The Agency will choose the best security available when there are several alternatives that meet the Agency's security requirement.**

When there are several alternatives available, any 1 of which will meet the security requirements for the loan, the authorized agency official has the discretion to select the best alternative for obtaining adequate security. The choice of security will be included on FSA-2313.

FSA primarily chooses between like types of security. For example, FSA will not choose chattel over real estate if real estate is the appropriate security for the loan and other real estate is available. FSA will also consider lien position when choosing security.

**E Requirement to Obtain Liens on all Non-essential Assets**

**[7 CFR 764.103(e)] The Agency will take a lien on all assets that are not essential to the farming operation and are not being converted to cash to reduce the loan amount when each such asset, or aggregate value of like assets (such as stocks), has a value in excess \*--of \$15,000. The value of this security is not included in the Agency's additional--\* security requirement stated in paragraph (c) of this section (subparagraph C). This requirement does not apply to down payment loans, CL, ML, or youth loans.**

This requirement is intended to provide FSA with a security interest in assets that are not essential to the farming operation, but which the applicant cannot or will not convert to cash to reduce credit needs or outstanding obligations. This requirement applies to individual applicants, entity applicants, as well as all individual members of the entity.

For FO, OL, and EM, the value of nonessential assets is:

- not included as part of the 150 percent additional security requirement, except CL

**Note:** The value of the nonessential asset may be included in the adequate security value calculation, if necessary for the applicant to meet the 100 percent collateral requirement.

- established according to subparagraph 95 B.

For CL, the applicant is only required to pledge enough nonessential assets to meet the 150 percent requirement.



**94 Exceptions to Security Requirements (Continued)**

**G ST Loans**

**[7 CFR 764.106(f)] On marginal land and timber that secures an outstanding ST loan.**

FSA is statutorily prohibited from taking additional liens on property securing an ST loan.

**H Documenting Exceptions**

When security is not taken for any of the mentioned reasons, the authorized agency official  
\*--must document the decision in FBP.--\*

## 95 Appraisals and Values

## A Adequate Security

**[7 CFR 764.107(a)] The value of real estate will be established by an appraisal completed in accordance with §761.7 (1-FLP) of this chapter, except that for ML's for FO purposes, the appraisal requirement may be satisfied by an evaluation by an authorized agency official that establishes the value of the real estate.**

**Note:** Until CFR is amended, the following instructions will be followed:

When real estate is taken as security, regardless of loan type, the real estate appraisal requirement may be satisfied by an evaluation from a loan approval official when the amount of the Agency loan to be secured by the real estate does not exceed \$50,000.

A new real estate appraisal is not required if the latest appraisal report available is not over \*--18 months old, unless significant changes in the market value of real estate have occurred in the area within the 18 month period.--\*

**Note:** An acceptable evaluation for FO ML must:

- be performed by a loan approval official that the SED has delegated the authority to perform real estate evaluations after sufficient training and experience
- be included in the Farm Assessment of the FBP
- identify the location of the property
- provide a description of the property, including any improvements and its current and projected use
- provide confirmation that the property was physically inspected and the date of the inspection
- describe the analysis performed and supporting information used to determine the property's market value, including where information was obtained i.e. court house records, comparable sales, property tax assessments, etc,
- include an effective date of the evaluation and a signature of the preparer.

**Note:** See Exhibit 12 for additional guidance on how to complete an evaluation. The evaluation will be documented in FBP Farm Assessment's Type of Farming Operation.

If a DFO-ML is made in conjunction with a real estate loan from another lender, that lender's evaluation or appraisal may be used as a determination of the property's market value. A copy of the evaluation information or appraisal must be included in the loan file as documentation of the determination.

**Note:** See 1-FLP, subparagraph 141 G for additional information about using third party appraisals.



## 132 Eligibility (Continued)

## A General Eligibility (Continued)

**\*--Example:** For this example, use the following facts.

Smith Farms, LLC,  
(operating entity)  
members are  
Bob Smith,  
Betty Smith,  
Fred Smith, and  
Ginger Smith.

Real Estate is owned as follows:

- Bob Smith and Betty Smith, as individuals, own 160 acres.
- Fred Smith and Ginger Smith, as Fred's Acres Inc., own 80 acres.

Based on these facts:

- the FLP applicant would be Smith Farms, LLC, and all the individual members of Smith Farms, LLC
- FLP would get a Credit Report and financial information on Smith Farms, LLC, and all individual members of Smith Farms, LLC
- the FLP loan would be to Smith Farms, LLC
- Smith Farms, LLC, and Bob, Betty, Fred, and Ginger must sign the Promissory Note
- deed and/or mortgage for the real estate (purchased with the FLP loan) can be to an individual (in any combination), or an entity (including a new entity) as long as the members of that entity are members of the operating entity and listed on the Promissory Note (no new members, not on the application, can be added), and allowed by State law; therefore, for this example, the deed and/or mortgage could be to:
  - Bob, Betty, Fred, or Ginger, as individuals, or in any combination; thereof
  - Fred's Acres, Inc., that is just Fred and Ginger, or any new entity created by the individuals to own the real estate purchased with the FLP loan funds, must still be properly incorporated.--\*

## 132 Eligibility (Continued)

**B No Prior Debt Forgiveness**

The applicant:

**[7 CFR 764.152(b)] And anyone who will sign the promissory note, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.**

The authorized agency official shall review debt verification obtained under subparagraph 65 B to determine whether there is any prior loss by the Government.

**C FO Individual and Entity Owner and Operator Requirement**

The applicant:

**[7 CFR 764.152(c)] Must be the owner-operator of the farm financed with Agency funds after the loan is closed. Ownership of the farm operation and farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity. In the case of an entity:**

**(1) The entity is controlled by farmers engaged primarily and directly in farming in the United States, after the loan is made;**

**(2) An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located.**

**(3) If the entity members holding a majority interest are;**

**(i) Related by blood or marriage, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the farm; or,**

**\*--(ii) Not related by blood or marriage, the entity member holding at least 50% interest must operate the family farm and the entity members holding at least 50% interest--\* or the entity must own the farm.**

**(4) If the entity is an operator only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).**

**Note:** In circumstances where the applicant is applying to purchase property that is subject to an active lease authorizing another party to operate the property for the remainder of the crop year, the transaction may close providing the lease is terminated at the end of the crop year and the applicant can assume operatorship of the property the following crop year.

**Section 2 Down Payment Program**

**151 Uses**

**A General**

The following regulations and requirements will apply to both regular FO and DFO-ML.

**\*--[7 CFR 764.201] Down payment loan funds may be used to partially finance the purchase of a family farm by an eligible beginning farmer or socially disadvantaged farmer.**

**Note:** For down payment loan purposes, the applicant must meet the definition of a--\* beginning farmer or socially disadvantaged farmer, according to Exhibit 2, at the time the application is received by FSA.

**152 Eligibility****A Requirements**

[7 CFR 764.202] **The applicant must:**

**(a) Comply with the general eligibility requirements established at § 764.101 (paragraphs 62 through 72) and the FO (including DFO-ML) eligibility requirements of § 764.152 (paragraph 132); and**

**\*--(b) Be a beginning farmer or socially disadvantaged farmer.**

See Exhibit 2 for the definition of a beginning farmer and SDA farmer.--\*

**B Farm Size for Beginning Farmers**

The applicant must not own more than 30 percent of the average size farm as established under the beginning farmer definition at the time of the application. The applicant may exceed the 30 percent after the loan is closed.

The average farm acreage and 30 percent of the average acreage shall be published in a State supplement. The 30 percent of the average acreage will be rounded to the closest tenth of a percent.

**Example:** The average size farm for the county is 94 acres. 30 percent of the average, rounded to the nearest tenth, is 28.2 acres. Therefore, to meet the beginning farmer requirements, the applicant must own no more than 28.2 acres.

If the farm is located in more than 1 county, FSA uses the average farm acreage of the county where the applicant's residence is located.

If the applicant's residence is not located on the farm or if the applicant is an entity, FSA uses the average farm acreage of the county where the largest portion of the farm is located.

**Note:** Average farm size does **not** apply to SDA applicants. However, the family farm requirement under § 764.101(k) (paragraph 71) does apply.

**153 Limitations****A General**

[7 CFR 764.203(a)] **The applicant must:**

(1) **Comply with the general limitations established at § 764.102 (paragraph 73).**

**B Minimum Down Payment**

The applicant must:

\*--[7 CFR 764.203(a)(2)] **Provide a minimum down payment of 5 percent of the purchase price of the farm.**

The applicant must provide the minimum down payment in cash.

**C Maximum FSA Loan Amount**

[7 CFR 764.203(b)] **Down payment loans will not exceed 45 percent of the lesser of:**

- (1) **The purchase price,**
- (2) **The appraised value of the farm to be acquired, or**
- (3) **\$667,000; subject to the direct FO dollar limit specified in 7 CFR 761.8(a)(1)(i).**

[7 CFR 764.203(c)] **Down payment loans made as ML for FO purposes may not exceed \$50,000.**

The following is an example of a DFOML down payment loan.

<b>Example:</b> Purchase Price	\$325,000
Cash Down Payment	\$ 16,250
Down Payment DFOML	\$ 50,000
Other Financing	\$258,750

**Note:** The balance of the purchase price not covered by the down payment loan and--\* applicant down payment may be financed by a commercial, cooperative, or private lender, including the seller.

**D Maximum Combined Loans**

[7 CFR 764.203(d)] **Financing provided by the Agency and all other creditors must not exceed 95 percent of the purchase price. Financing provided by eligible lenders may be guaranteed by the Agency under part 762 of this chapter (2-FLP).**

## 154 Rates, Terms, and Security

### A Rates

**\*--[7 CFR 764.204(a)] The interest rate for Down payment loans will be the regular direct FO rate minus 4 percent, but in no case less than 1.5 percent. See 1-FLP, Exhibit 17 for current rates.**

### B FSA Terms

**[7 CFR 764.204(b)(1)] The Agency schedules repayment of Down payment loans in equal, annual installments over a term not to exceed 20 years.**

The authorized agency official may schedule repayment over a period of less than 20 years if requested by the applicant and the farm operating plan (see 1-FLP, Part 8, Section 3) indicates that the loan can be repaid within the period requested.

### C Other Lender Terms

**[7 CFR 764.204(b)(2)] The non-Agency financing must have an amortization period of at least 30 years and cannot have a balloon payment due within the first 20 years of the loan.**

### D Minimum Security Requirements

**[7 CFR 764.205] A Down payment loan must:**

**(a) Be secured in accordance with §§ 764.103 through 764.106 (paragraphs 91 through 93);**

**(b) Be secured by a lien on the property being acquired with the loan funds and junior only to the party financing the balance of the purchase price.**

FSA:

- requires adequate security on a down payment loan as it does for an FO--\*
- does not require additional security
- does not require a lien on nonessential assets.

**Note:** The purchase price of a property may exceed the appraised value, providing adequate security is available to satisfy all security requirements.

See Part 5 for detailed information on security requirements.

155-170 (Reserved)

**174 Rates, Terms, and Repayment (Continued)****C Repayment**

All CL's are scheduled with annual payments. The repayment schedule may include equal, unequal, or balloon payments, as follows:

- \*--the first payment is due within 24 months--\*
- after the initial payment, payments are scheduled annually, unless the loan is repaid in a single payment
- annual installments must cover, at a minimum, the accrued interest
- annual installments may be collected by assignments and supplemental payments
- if unequal or interest only installments are scheduled for a nonstreamlined CL, the applicant must be able to show that there will be sufficient resources available to pay the loan, in full, by the final maturity date
- if a cost share payment is planned, repayment may be scheduled with the cost share portion as the balloon portion, enabling regularly scheduled payments before and after applying the cost share payment.

## 175 Security

## A Security Requirements

\*--[7 CFR 764.235(a)] The loan must be secured in accordance with requirements established in 764.103 through 764.106 (Part 5).

[7 CFR 764.235(b)] Loans to purchase chattels will be secured by a first lien on chattels purchased with loan funds. Real estate may be taken as additional security if needed.

[7 CFR 764.235(c)] Loans of \$25,000 or less for real estate purposes will be secured in the following order of priority:

(1) By a lien on chattels determined acceptable by the Agency, and then

(2) By a lien on real estate, if available and necessary. When real estate is taken as security a certification of ownership in real estate is required. Certification of ownership may be in the form of an affidavit that is signed by the applicant, names all the owners of record of the real estate in question and lists the balances due on all known debts against the real estate. Whenever the Agency is uncertain of the record owner or debts against the real estate security, a title search is required.

[7 CFR 764.235(d)] Loans greater than \$25,000 for real estate purposes will be secured in the following order of priority:

(1) By a lien on real estate, if available, and then

(2) By a lien on chattels, if needed and determined acceptable by the Agency.

[7 CFR 764.235(e)] For loans greater than \$25,000 title clearance is required when real estate is taken as security.--\*

176-190 (Reserved)



## Part 9 Operating Loan (OL) Program

### Section 1 OL's

#### 201 Uses

##### A General

**[7 CFR 764.251(a)] Except as provided in paragraph (b), OL and ML used for OL purposes loan funds may only be used for:** See subparagraphs B through L for OL uses.

**Note:** To conserve FSA funding, applicants will be strongly encouraged to obtain a portion of their credit needs from other sources if possible. Such arrangements may include splitting annual operating from term loan purposes, vendor credit, FSA guarantees, and subordinations. Maximizing the use of other available credit sources, especially for shorter term operating credit, will allow FSA to better meet program demand.

##### B Reorganizing a Farm

OL funds may only be used for:

**[7 CFR 764.251(a)(1)] Costs associated with reorganizing a farm to improve its profitability;**

The following requirements apply when reorganizing a farm.

- Reorganizing the farm means changing enterprises, production practices, marketing methods, or other parts of the farm business to enhance the viability of the farm.
- Examples of acceptable use of loan funds under this provision include but are not limited to:
  - purchase of equipment to convert from conventional to no-till production
  - change from stocker to cow/calf production
  - shifting from row crop to vegetable production
  - purchasing grain drying and storage equipment to facilitate better marketing
  - purchase shares in value-added processing and marketing cooperatives.

**Note:** These situations are for illustrative purposes only. Any similar operational changes are acceptable as long as a realistic farm plan indicates the changes will improve the financial viability of the farm.

##### C Chattel and Other Purchases

OL funds may only be used for:

**\*--[7 CFR 764.251(a)(2)] Purchase of livestock, including poultry, farm equipment or fixtures, quotas and bases, and cooperative stock for credit, production, processing--\* or marketing purposes;**

**201 Uses (Continued)****C Chattel and Other Purchases (Continued)**

Funds may be used only for purchases essential to the success of the farming operation.

Farm vehicles used for farm operating purposes may be purchased, repaired, or refinanced only when the following conditions apply.

- The applicant provides verification that the vehicle will be used exclusively for farm operating purposes. Examples of vehicles used for farm operating purposes include, but are not limited to, grain or livestock hauling trucks, vehicles needed to pull wagons or livestock trailers, and pick-up trucks.
  - A pick-up truck used primarily as a personal vehicle shall not be financed.
  - The income tax treatment of a vehicle is a good indication of its use. If the farm vehicle is or will be depreciated as a farm asset, FSA financing may be authorized.
- The applicant documents need for purchasing, repairing, or refinancing.
- Other credit is not available from usual sources, including dealers and banks. When a farm vehicle is being purchased, dealer and bank financing is usually readily available, often at low rates.
- The vehicle being purchased, repaired, or refinanced is modest in size, utility, and cost and meets the needs of the operation.

\*--Acquiring farm assets by purchasing ownership interest in an entity is considered to be the same as purchasing the assets themselves. The following uses are authorized:

- Individual(s) purchasing ownership interest in an existing operating entity to become the new owner(s).
- Existing member(s) purchasing the shares of a withdrawing member(s).

When considering these requests:

- in all cases, the entity must be the applicant and operator of the farm
- all entity members must sign the promissory note providing individual liability for the debt
- the assets purchased must be an authorized OL loan purpose
- the loan amount must be consistent with the interests purchased.

State Offices shall contact the National Office for guidance if needed.--\*

## 204 Rates, Terms, and Repayment

### A Rates

**[7 CFR 764.254(a)(1)] The interest rate is the Agency's Direct Operating Loan rate, available in each Agency office.**

See 1-FLP, Exhibit 17 for interest rates.

**[7 CFR 764.254(a)(2)] The limited resource Operating Loan interest rate is available to applicants who are unable to develop a feasible plan at regular interest rates.**

See subparagraph 351 C for more information on limited resource loans when the farm operating plan shows that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

**Note:** When the regular OL interest rate is equal to or less than the limited resource rate, the limited resource rate will not be used.

**[7 CFR 764.254(a)(3)] The interest rate charged will be the lower rate in effect at the time of loan approval or loan closing.**

**[7 CFR 764.254(a)(4)] The Agency's direct ML OL interest rate on an ML to a beginning farmer or veteran rancher is available in each Agency office. ML borrowers in these groups have the option of choosing the ML OL interest rate or the Direct OL interest rate in effect at the time of loan approval, or if lower, the rate in effect at the time of closing.**

### B Annual OL Term

**[7 CFR 764.254(b)(1)] The Agency schedules repayment of annual OL loans made for family living and farm operating expenses when planned income is projected to be available.**

**\*--(i) The term of the loan may not exceed 24 months from the date of the note.**

**(ii) The term of the loan may exceed 24 months in unusual situations such as establishing a new enterprise, developing a farm, purchasing feed while crops are being established, marketing plans, or recovery from a disaster or economic reverse. In no event will the term of the loan exceed 7 years from the date of the note. Crops and livestock produced for sale will not be considered adequate security for such loans.**

The applicant repays an annual OL when income becomes available. The repayment period will normally be within 12 months, or no more than 24 months after the date of loan--\* closing, if necessary, when marketing plans extend beyond 12 months; for example, when crops or livestock take longer than 12 months to mature. The authorized agency official, by using FSA-2027, may approve a supplemental payment agreement for applicants who receive substantial income from which payments are to be made before their installment due date.

## 204 Rates, Terms, and Repayment (Continued)

## C Other OL Terms

**[7 CFR 764.254(b)(2)] The Agency schedules the repayment of all other OL loans based on the applicant's ability to repay and the useful life of the security. In no event will the term of the loan exceed 7 years from the date of the note. Repayment schedules may include equal, unequal, or balloon installments if needed to establish a new enterprise, develop a farm, or recover from a disaster or economic reversal. Loans with balloon installments:**

**\*--Note:** If the loan official determines that a term of less than 7 years is warranted, the justification for the reduction must be fully documented in the FBP Credit Presentation, including a discussion of the collateral taken and reason the collateral is not sufficient for the full 7-year term.--\*

**(i) Must have adequate security, at the time the balloon installment comes due. Crops, livestock other than breeding stock, or livestock products produced are not adequate collateral for such loans.**

**(ii) Are only authorized when the applicant can project the ability to refinance the remaining debt at the time the balloon payment comes due based on the expected financial condition of the operation, the depreciated value of the collateral, and the principal balance on the loan.**

When the applicant's projected repayment ability will not allow normal repayment within 7 years, a 7-year loan with a 21-year balloon amortized installment schedule may be offered.

There must be adequate collateral for the loan at the time the balloon payment is due. Circumstances that warrant balloon installments include establishing a new enterprise, developing a farm, purchasing feed while feed crops are being established or during recovery from a disaster, or economic reverses. In no case will annual crops be used as the sole collateral securing balloon installment. A loan with a balloon installment must be adequately secured by basic security, which may include foundation stock, farm equipment, and/or real estate. The amount of the balloon installment should not exceed that amount which the applicant could reasonably expect to pay during a maximum additional 15-year period.

**Note:** The 21-year balloon amortized installment factor represents the minimum amount the payments would be based upon restructuring the remaining balloon payment over the maximum 15-year period.

**(iii) Are not authorized when loan funds are used for real estate repairs or improvements.**

**204 Rates, Terms, and Repayment (Continued)****D Repayment**

The farm operating plan used to project repayment ability must be completed according to 1-FLP, Part 8.

The OL repayment schedule may include equal, unequal, or balloon payments, as follows:

- \*--for annual operating loans the first payment is due when income is received or within 24 months--\*
- for all other operating loans, the first payment is due within 12 months of loan closing
- after the initial payment, payments are scheduled annually unless the loan is repaid in a single payment
- the repayment term for OL is 1 to 7 years, as determined by the applicant's projected repayment ability
- annual installments must cover, at a minimum, the accrued interest
- annual installments may be collected by assignments and supplemental payments
- if unequal or interest only installments are scheduled, the applicant must be able to show that there will sufficient resources available to pay the loan in full by the final maturity date.

## 205 Security

## A General

[7 CFR 764.255] An OL loan must be secured:

(a) In accordance with §§ 764.103 through 764.106 (paragraphs 91 through 94).

(b) Except for ML's, by a:

(1) First lien on all property or products acquired or produced with loan funds;

(2) Lien of equal or higher position of that held by the creditor being refinanced with loan funds.

\*--[7 CFR 764.255(c)] For ML's used for OL purposes:--\*

[7 CFR 764.255(c)(1)] For annual operating purpose loans must be secured by a first lien on farm property or products having a security value of at least 100 percent of the loan amount, and up to 150 percent, when available. A lien is not required on crops or livestock financed with annual operating ML's. However, the loan must be secured at least 100 percent and up to 150 percent if available, without taking a lien on personal residences or nonessential assets.

[7 CFR 764.255(c)(2)] For loans made for purposes other than annual operating \*--purposes, loans must be secured by a first lien on farm property or products--\* purchased with loan funds and having a security value of at least 100 percent of the loan amount.

**Notes:** Loans made for refinancing purposes will be secured by a lien on any farm property valued at least 100 percent of the loan amount.

In cases where livestock is the only security that will be pledged, FSA will take no more than 100 percent of the loan amount when separate and identifiable security can clearly be established.

[7 CFR 764.255(c)(3)] A lien on real estate is not required unless the value of the farm products, farm property, and other assets available to secure the loan is not at least equal to 100 percent of the loan amount.

[7 CFR 764.255(c)(4)] Notwithstanding the provisions of paragraphs (c)(1), (c)(2), and (c)(3) of this section, FSA will not require a lien on a personal residence.

206-215 (Reserved)

## 228 Eligibility (Continued)

**D Project Advisor**

The applicant:

**\*--[7 CFR 764.302(d)] Must be recommended and continuously supervised by a project advisor, such as a 4-H Club advisor, a vocational teacher, a county extension agent, Tribal youth advisor, or other agriculture-related organizational sponsor; and--\***

The application for a youth loan must contain a recommendation from the project advisor and verify that:

- the project advisor:
  - will sponsor the youth
  - has training and/or experience to supervise youth
  - is available to help the youth plan the project, to review the youth's books and records, and to answer questions
- the youth is a member of an organization.

While the project advisor should supervise the youth applicant to an extent acceptable to the authorized agency official, the authorized agency official still has the primary responsibility for supervising the loan.

**E Parental Consent**

The applicant:

**\*--[7 CFR 764.302(e)] Must obtain a written recommendation and consent from a--\* parent or guardian if the applicant has not reached the age of majority under state law.**

**F Requiring Cosigners**

A cosigner will be required only if it is determined that the applicant cannot possibly meet the repayment or security requirements for the loan request.

**Note:** When a plan is feasible using realistic figures, a cosigner will not be required.

**229 Rates, Terms, and Repayment****A Rates**

**[7 CFR 764.304(a)(1)] The interest rate is the Agency's Direct Operating Loan rate, available in each Agency office.**

**[7 CFR 764.304(a)(2)] The limited resource Operating Loan interest rate is not available for Youth loans.**

**[7 CFR 764.304(a)(3)] The interest rate charged will be the lower rate in effect at the time of loan approval or loan closing.**

See 1-FLP, Exhibit 17 for interest rates.

**B Terms**

**[7 CFR 764.304(b)] Youth loan terms are the same as for an OL established at § 764.254(b) (paragraph 204).**

Payments will be tailored to the type of project for which the loan is made.

**Exception:** Balloon payments are prohibited.

**C Repayment Frequency**

Youth loan repayment schedules may include equal or unequal payments as follows:

- for annual operating youth loans, the first payment is due when income is received or \*--within 24 months--\*
- for all other operating youth loans, the first payment is due within 12 months of loan closing
- after the initial payment, payments are scheduled annually unless the loan is repaid in a single payment
- annual installments must cover, at a minimum, the accrued interest.



## 245 Rates, Terms, and Repayment

### A Rates

**[7 CFR 764.354(a)(1)] The interest rate is the Agency's Emergency Loan Actual Loss rate, available in each Agency office.**

**[7 CFR 764.354(a) (2)] The interest rate charged will be the lower rate in effect at the time of loan approval or loan closing.**

See 1-FLP, Exhibit 17 for interest rates.

### B Terms

**[7 CFR 764.354(b)(1)] The Agency schedules repayment of EM loans based on the useful life of the security, the applicant's repayment ability, and the type of loss.**

The applicant's ability to repay the loan is a critical factor in determining the repayment term of the loan.

### C Minimum Repayment Requirement

**[7 CFR 764.354(b)(2)] The repayment schedule must include at least one payment every year.**

The payment must be at a minimum the amount of interest accrued on the principal balance at the time the installment is scheduled to be paid.

If unequal or interest only installments are scheduled, the applicant must be able to show the availability of resources to pay the loan in full by the final maturity date.

### D Repayment of Loans for Annual Operating Expenses

**[7 CFR 764.354(b)(3)] EM loans for annual operating expenses, except expenses associated with establishing a perennial crop that are subject to paragraph (b)(4), must \*--be repaid within 12 months. The Agency may extend this term to not more than 24 months to accommodate the production cycle of the agricultural commodities.**

Annual operating loans must be scheduled for repayment at the time income will be available to make the payment, but not later than 24 months from the date of the note.--\*

## 245 Rates, Terms, and Repayment (Continued)

**E Repayment of Loans for Production or Physical Losses to Chattels**

**[7 CFR 764.354(b)(4)] EM loans for production losses or physical losses to chattel (including but not limited to assets with an expected life between one and seven years) may not exceed seven years. The Agency may extend this term up to a total length not to exceed 20 years, if necessary to improve the applicant's repayment ability and real estate security is available.**

The usual repayment term for a loan secured by chattel is 1 to 7 years. The specific term of a loan shall be determined by the applicant's projected ability to repay the loan based on the farm operating plan.

When the applicant's projected repayment ability does not permit repayment within 7 years, a 10-year term may be considered. If repayment is not possible in 10 years, then a longer term may be considered in 2-year increments. At no time will the maximum term exceed 20 years.

Real estate security is required in addition to chattel security when the repayment term will exceed 7 years.

\*--The first installment, which may be interest only, will be scheduled within 12 months of loan closing.--\*

Repayment terms with balloon installments are prohibited.

**Note:** Balloon installments result when scheduled payments are insufficient to pay the loan without requiring a final installment that exceeds twice the amount of a regularly amortized installment.

## 472 Assessing an Individual's Need for Training (Continued)

**B Determining Whether to Waive Training Requirements**

**[7 CFR 764.453(a)] The applicant must request the waiver in writing.**

\*--FSA-2370 should not be obtained until a review of borrower training requirements is completed. FSA-2370 is not considered part of a complete application. Approving official must make a determination on training requirements for each loan in the package.--\*

**[7 CFR 764.453(b)] The Agency will grant a waiver for training in production, financial management, or both, under the following conditions:**

**(1) The applicant submits evidence of successful completion of a course similar to a xxxcourse approved under section § 764.457 (paragraph 492) and the Agency determines that additional training is not needed; or**

**(2) The applicant submits evidence, which demonstrates to the Agency's satisfaction the applicant's experience and training necessary for a successful and efficient operation.**

After the applicant has been determined eligible, and before loan closing, the authorized agency official will determine whether to waive training.

If an applicant is applying for additional FSA assistance or benefits, such as a subsequent loan, the authorized agency official must reassess whether to waive a borrower's training requirements even if FSA waived training for the applicant's initial loan. Borrower training is determined on a per loan basis.

The authorized agency official will:

- determine whether to waive financial management training based on the applicant's:
  - FSA-2002 and FSA-2302
  - practical experience
  - demonstrated ability to keep records
  - education and training
- consider the complexity of the applicant's operation and amount of loan requested
- determine whether to waive the production training requirement based on a review of FSA-2003 and FSA-2302.

If the applicant does not have a 3-year production history, the authorized agency official will consider any similar practical experience the applicant might have.

## 472 Assessing an Individual's Need for Training (Continued)

**B Determining Whether to Waive Training Requirements (Continued)**

**[7 CFR 764.453(c)] If the production and financial functions of the operation are shared among individual entity members, the Agency will consider the collective knowledge and skills of the individuals when determining whether to waive training requirements.**

**\*--[7 CFR 764.453(d)] When considering subsequent loan actions, previous training requirements that have not yet been satisfied may be waived by the Agency should the borrower submit satisfactory evidence in accordance with § 7 CFR 764.453(b).--\***

**[7 CFR 764.452(f)] The Agency cannot reject a request for a direct loan based solely on an applicant's need for training.**

However, as described in paragraph 69, an applicant must demonstrate managerial ability through education, training, or experience to be eligible to receive a direct loan.

**C Notifying Applicant of the Training Decision**

**[7 CFR 764.452(g)] The Agency will provide written notification of required training or waiver of training.**

**[7 CFR 764.452(e)] Even if a waiver is granted, the borrower must complete borrower training as a condition for future loans if and when Agency supervision provided in 7 CFR 761 subpart C (1-FLP, Part 8) reflects that such training is needed.**

**D Production Training Requirements**

**[7 CFR 764.452(b)] When the Agency determines that production training is required, the applicant must agree to complete course work covering production management in each crop or livestock enterprise the Agency determines necessary.**

FSA will require an applicant to complete production management training only in crop or livestock enterprises that are relevant to the applicant's operation.

Items to be included in the training are those production management requirements found in subparagraph 492 C.

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
BCIS	Bureau of Citizenship and Immigration Services	Ex. 8, 9
CONACT	Consolidated Farm and Rural Development Act	1, 69, 132, Ex. 16
CAT	Catastrophic Risk Protection Endorsement	113, 244
CL	Conservation Loans	Text, Ex. 2
CMCB	Cash Management Collections Branch	Ex. 26
DFO	Direct Farm Ownership	Text
DOL	Direct Operating Loan	4, 43, 66, 69
FFA	Future Farmers of America	69, 227
FI	financial institution	Ex. 26
FICO	Fair Isaac Corporation	191
FmHA	Farmers Home Administration	2, 94, 202
FP	Farm Program	41, 93, 244, Ex. 2
INA	Immigration and Nationality Act	Ex. 8
ML	Microloan	Text
* * *	* * *	* * *
NPO	nonprofit organization	72
PAD	Preauthorized Debit	399, 419, Ex. 26
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 8
SAM	System for Award Management	67, 373.5
SDMS	State Directive Management System	3, 355
ST	softwood timber	94, Ex. 2
TDCLCR	*--Term Debt and Capital Lease Coverage Ratio--*	135, 245

Re delegations of Authority

None



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

### Debt Forgiveness

Debt forgiveness means a reduction or termination of a debt under the Act in a manner that **\*--results in a loss to the Agency.**

**(1) Debt forgiveness may be through:**

- (i) Writing down or writing off debt pursuant to 7 U.S.C. 2001;**
- (ii) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or**
- (iii) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.**

**(2) Debt forgiveness does not include:**

- (i) Debt reduction through a conservation contract;**
- (ii) Any write down provided as part of the resolution of a discrimination complaint against the Agency;**
- (iii) Prior debt forgiveness that has been repaid in its entirety; and**
- (iv) Consolidation, rescheduling, reamortization, or deferral of a loan, or**
- (v) Forgiveness of YL debt, due to circumstances beyond the borrower's control.**

**The Agency will use the criteria in 7 CFR 766.104(a)(1) to determine if the circumstances were beyond the borrower's control.--\***

### Debt Service Margin

Debt service margin means **the difference between all of the borrower's expected expenditures in a planning period (including farm operating expenses, capital expenses, essential family living expenses, and debt payments) and the borrower's projected funds available to pay all expenses and payments.**

### Direct Loan

Direct loan means **a loan funded and serviced by the Agency as the lender.**

### Disaster

Disaster means **an event of unusual and adverse weather conditions or other natural phenomena or quarantine, that has substantially affected the production of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area declared, by the President or designated by the Secretary of Agriculture, for physical losses only, the FSA Administrator may authorize emergency loan assistance.**

### Disaster Area

Disaster area means **the county or counties declared or designated as a disaster area for EM loan assistance as a result of disaster related losses. This area includes counties contiguous to those counties declared or designated as disaster areas.**

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

**Disaster Yield**

Disaster yield means **the per-acre yield of an agricultural commodity for the farming operation during the production period when the disaster occurred.**

**\*--Down Payment Loan**

Down payment loan means **a type of FO loan made to beginning farmers and socially--\* disadvantaged farmers to finance a portion of a real estate purchase under Part 764, Subpart E of this chapter (Part 7, Section 2).**

**EM**

EM means **a loan made to eligible applicants who have incurred substantial financial losses from a disaster.**

**Embedded Entity**

Embedded entity means **an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in an entity.**

**Entity**

Entity means **a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organizations, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Program purposes.**

**Entity Member**

Entity member means **all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.**



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

**Essential Family Living and Farm Operating Expenses**

Essential family living and farm operating expenses:

- (1) Are those that are basic, crucial, or indispensable.**
- (2) Are determined by the Agency based on the following considerations:**
  - (i) The specific borrower's operation;**
  - (ii) What is typical for that type of operation in the area; and**
  - (iii) What is an efficient method of production considering the borrower's resources.**
- (3) Include, but are not limited to essential: household operating expenses; food, including lunches; clothing and personal care; health and medical expenses, including medical insurance; house repair and sanitation; school and religious expenses; transportation; hired labor; machinery repair; farm building and fence repair; interest on loans and credit or purchase agreement; rent on equipment, land, and buildings; feed for animals; seed, fertilizer, pesticides, herbicides, spray materials and other necessary farm supplies; livestock expenses, including medical supplies, artificial insemination, and veterinarian bills; machinery hire; fuel and oil; taxes; water charges; personal, property and crop insurance; auto and truck expenses; and utility payments.**

**Established Farmer**

Established farmer means a farmer who operates the farm (in the case of an entity, its members as a group) who meets all the following conditions:

- (1) Actively participated in the operation and the management, including but not limited to, exercising control over, making decisions regarding, and establishing the direction of, the farming operation at the time of the disaster;**
- (2) Spends a substantial portion of time in carrying out the farming operation;**
- (3) Planted the crop, or purchased or produced the livestock on the farming operation;**
- (4) In the case of an entity, is primarily engaged in farming and has over 50 percent of its gross income from all sources from its farming operation based on the operation's projected cash flow for the next crop year or the next 12-month period, as mutually determined;**
- (5) Is not an integrated livestock, poultry, or fish processor who operates primarily and directly as a commercial business through contracts or business arrangements with farmers, except a grower under contract with an integrator or processor may be considered an established farmer, provided the farming operation is not managed by an outside full-time manager or management service and Agency loans shall be based on the applicant's share of the agricultural production as set forth in the contract; and**
- (6) Does not employ a full time farm manager.**

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

### False Information

False information means information provided by an applicant, borrower, or other source to the Agency that the applicant or borrower knows to be incorrect.

### Family Farm

Family Farm means a business operation that:

- (1) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;
- (2) Has both physical labor and management provided as follows:
  - (i) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:
    - \*--(A) The borrower, with input and assistance allowed from persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
    - (B) The members responsible for operating the farm, in the case of an entity.
  - (ii) A substantial amount of labor to operate the farm is provided by:
    - (A) The borrower, with input and assistance allowed from persons who are either--\* related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
    - (B) The members responsible for operating the farm, in the case of an entity.
- (3) May use full-time hired labor in amounts only to supplement family labor.
- (4) May use reasonable amounts of temporary labor for seasonal peak workload periods or intermittently for labor intensive activities.

### Family Living Expenses

Family living expenses means the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

### Family Members

Family members mean the immediate members of the family residing in the same household with the individual borrower.

**Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****Farm**

**Farm means a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term “farm” also includes the term “ranch”. It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.**

**Farm Income**

**Farm income means the proceeds from the sale of agricultural commodities that are normally sold annually during the regular course of business, such as crops, feeder livestock, and other farm products.**

**Farm Loan Programs (FLP's)**

**FLP's means Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.**

**Farm Program (FP) Payments**

**FP payments are benefits received from FSA for any commodity, disaster, or cost share programs.**

**FO**

**FO means a loan made to eligible applicants to purchase, enlarge, or make capital improvements to family farms, or to promote soil and water conservation and protection.**

**\*--It also includes Down payment loans.--\***

**Farmer**

**Farmer means an individual, corporation, partnership, joint operation, cooperative, trust, or limited liability company that is the operator of a farm.**

**Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****Feasible Plan**

**Feasible plan means when an applicant or borrower's cash flow budget or farm operation plan indicates that there is sufficient cash inflow to pay all cash outflow. If a loan approval or servicing action exceeds one production cycle and the planned cash flow budget or farm operation plan is atypical due to cash or inventory on hand, new enterprises, carryover debt, atypical planned purchases, important operating changes, or other reasons, a cash flow budget or farm operation plan must be prepared that reflects a typical cycle. If the request is for only one cycle, a feasible plan for only one cycle is required for approval.**

Streamlined CL's are considered feasible when all requirements in subparagraph 191 B are met.

Situations may arise in which an applicant/borrower cannot develop a feasible plan because of open accounts or judgment debts that are considered fully due and payable.

In such cases, when the applicant/borrower indicates that a creditor is willing to extend terms which would enable a feasible plan to be developed, the approval official must obtain written documentation that an agreement has been reached.

Acceptable documentation will be any of the following:

- promissory note reflecting the rates and terms of the agreement
- dated and signed allonge or attachment to existing promissory note or judgment, which states the new rate and terms

**Note:** Any revision of terms in a court-ordered judgment must be approved by the court with guidance from OGC.

- written agreement between the creditor and the applicant/borrower clearly stating the rates and terms and signed by the borrower and the creditor.

**Financially Viable Operation**

**Financially viable operation, for the purposes of considering a waiver of OL term limits under §764.252 of this chapter, means a farming operation that, with Agency assistance, is projected to improve its financial condition over a period of time to the point that the operator can obtain commercial credit without further Agency assistance. Such an operation must generate sufficient income to:**

- (1) Meet annual operating expenses and debt payments as they become due;**
- (2) Meet essential family living expenses to the extent they are not met by dependable non-farm income;**
- (3) Provide for replacement of capital items; and**
- (4) Provide for long-term financial growth.**

## Preauthorized Debit (PAD)

\*--PAD payments are customer authorized transactions that allow the Rural Development Business Center to--\* electronically collect loan payments from a customer's account at a FI. CMCB is responsible for setting up, changing, correcting, and canceling PAD agreements. PAD is being implemented for our FLP customers as an alternative way to make loan payments. There is no additional cost passed on to our customers by FSA for using PAD.

### A Using 3550-28

- PAD is initiated by the customer using RD 3550-28. (Customer use of PAD is strictly voluntary.)
- RD 3550-28 must be completed by the customer and the FI. If the customer has a filter on their FI account, they will need to provide the FI with the following information:
  - Origination ID: 1220040804
  - Agency name: USDA RD DCFO.
- A separate RD 3550-28 must be completed for each loan to which payments are to be applied.
- RD 3550-28 has no expiration date.
- The fillable form can be found at <https://formsadmin.sc.egov.usda.gov/eFormsAdmin/searchAction.do>

### B County Office Actions

The County Office will issue a letter similar to the one in subparagraph C and RD 3550-28 to applicants with approved direct loans, who are not already borrowers, when FSA-2313 is sent or hand delivered. After a transfer and assumption, new borrowers will be notified of the availability of PAD using the letter in subparagraph C and RD 3550-28. A copy of the notification will be retained in the borrower's office.

When a customer returns RD 3550-28 to the County Office, the County Office will:

- review each RD 3550-28 for accuracy and completeness.

**Note:** PAD may only be established for future payments. An accuracy check should be completed to ensure the customer's PAD payment goal will be met. A payment submission which will not make the annual installment requires advance notice to the authorizing borrower. The County Office will document the notice in the case file (or FBP if appropriate).

- fax a copy of each accurate and completed RD-3550-28 to CMCB at 314-457-4370; if using fax2mail, please type //FINE at the end of the subject line
- retain each original RD 3550-28 in the borrower's case file (position 2).

**Preauthorized Debit (PAD) (Continued)**

**C Sample Letter for PAD**

The following is a sample letter for PAD (print on official letterhead).

(Date)

(Account Name)

(Address)

Address)

Dear (Account Name),

We are writing to inform you that your Farm Service Agency (FSA), Farm Loan Program payments may now be made through preauthorized debit.

You may use preauthorized debit to have your payments withdrawn electronically from your financial institution and applied toward your annual loan payment. Payments may be withdrawn weekly, bi-weekly, monthly, quarterly, semi-annually or annually. You may initiate preauthorized debit by working with your financial institution to complete RD 3550-28, "Authorization Agreement for Preauthorized Payments" (attached). RD 3550-28 will need to be completed and submitted to your local service center for each loan to which payments are to be applied. If you have a "filter" on the account at your financial institution, you will need to provide the financial institution with the following information: Origination ID: 1220040804, Agency Name: USDA RD DCFO. Preauthorized debit is offered to you by FSA at no cost; you will need to discuss any potential costs with your financial institution. Preauthorized debt has no expiration date, but you may cancel it at any time by submitting a written request to your local service center. If a preauthorized debit agreement receives three payment rejections within a three month period, the preauthorized debt agreement will be cancelled by FSA. The payment amount and due date of your loan is not affected by a cancellation of preauthorized debit. You are responsible to ensure your full payment is made by the due date.

If you have questions on preauthorized debit, please contact (name and title) at (phone number).

Sincerely,

(Name)

(Title)

Attachment: RD 3550-28

## Preauthorized Debit (PAD) (Continued)

### \*--D Rural Development Business Center Actions

Upon receipt of RD 3550-28, CMCB will update the PAD agreement into the PAD stand-alone system. Allow up to 20 working dates for CMCB to establish a borrower in the PAD system.

PAD confirmation letters are created by CMCB when a new account is established or when a change is made to an existing account. The letters are sent to the field office and borrower.

**Note:** The local service center will also complete a thorough review of all PAD confirmation letters immediately after they are received from the Rural Development Business Center/CMCB. If an error is identified, CMCB should be contacted by FAX according to 1-FLP.

### E Generating PAD Transactions Through CMCB's Stand-Alone System

Each day, an electronic file is generated, balanced, and approved for that day's scheduled PAD payments to be withdrawn from the borrowers' FI accounts and updated to PLAS (ADPS). CMCB applies any payments that do not automatically update to PLAS.--\*

The PAD transaction will be reflected on the statement the borrower receives from their FI. The statement is the borrower's payment receipt.

### F Dealing with Non-Payment

When the FI cannot post the PAD transaction to the designated borrower's account, the FI is instructed by CMCB to reject the transaction.

When a PAD transaction is rejected, CMCB contacts the County Office to verify the reason for rejection (such as insufficient funds, account closed, or payment stopped) and to determine how the rejected payments will be collected. CMCB cannot proceed until the rejection is revealed; a timely reply from the CO will expedite the process.

