

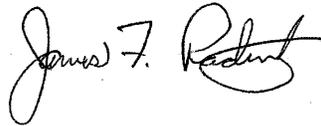
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Special
and Inventory Property Management
5-FLP**

Amendment 38

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 48 A has been amended to add a requirement that Disaster Set-Aside be canceled on accounts that are being accelerated.

Subparagraph 226 A has been amended to require SED approval for primary loan servicing for borrower accounts that have already received primary loan servicing 2 or more time in the previous 5 years.

Subparagraph 250 A has been added to provide details for managing pre-authorized debit during closing for accounts receiving servicing.

Subparagraphs 777 D has been amended to change the SED market review requirement from annual completion to completed as necessary based on market conditions.

Exhibit 4 has been amended to remove a note that requires State completion of cost analysis by a specific date.

Exhibit 17, subparagraphs 5 A and 5 G have been amended to update Administrative Liquidation Costs with 2016 salary costs.

Note: The State supplement shall be issued and eDALAR\$ updated no later than (60 days from date of notice). See Exhibit 17, subparagraph 5 F.

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46 DSA Approval (Continued)**E Installments To Be Set-Aside**

[7 CFR 766.58] (a) The Agency will set-aside the first installment due immediately after the disaster occurred.

(b) If the borrower has already paid the installment due immediately after the disaster occurred, the Agency will set aside the next annual installment.

F Interest Accrual

[7 CFR 766.59(a)] (1) Interest will accrue on any principal portion of the set-aside installment at the same rate charged on the balance of the loan.

(2) If the borrower's set-aside installment is for a loan with a limited resource rate and the Agency modifies that limited resource rate, the interest rate on the set-aside portion will be modified concurrently.

[7 CFR 766.59(b)] The amount set-aside, including interest accrued on the principal portion of the set-aside, is due on or before the final due date of the loan.

G Recording DSA

The authorized agency official will use FSA-2501 as the source document to complete the DSA SI Other workflow to create and submit the 5S – Record Disaster Set-Aside DLS *--transaction. NFAOC borrower account status reports and inquiry screens will reflect the--* amounts set-aside for each loan. An ISA identifier will be displayed on RC 540 for loans with DSA.

H Security Requirements

[7 CFR 766.56] If the borrower is not current on all FLP loans prior to the borrower executing the appropriate DSA Agency documents, the borrower, and all obligors in the case of an entity, must execute and provide to the Agency a best lien obtainable on all their assets except those listed under section 766.112(b) (paragraph 211).

47 Adverse Determinations**A Notifying Borrowers of Adverse Determinations**

DSA applications that do not meet all DSA requirements will be rejected and the borrower will be notified of the decision and provided appeal rights according to 1-APP.

48 **Canceling and Reversing DSA****A Canceling DSA**

[7 CFR 766.60] The Agency will cancel a DSA if:

[7 CFR 766.60(a)] The Agency takes any primary loan servicing action on the loan;

--If an account is accelerated, the DSA must be canceled as part of the acceleration action.--

If FSA later restructures the borrower's loan, the authorized agency official must cancel DSA with a 5T – Cancel Disaster Set-Aside transaction when processing the restructuring through DLS Special Servicing.

[7 CFR 766.60(b)] The borrower pays the current market value buyout in accordance with § 766.113; or

[7 CFR 766.60(c)] The borrower pays the set-aside installment.

--If the borrower pays the set-aside installment, the office shall contact NFAOC, FaSB to--
process the DSA cancellation with a 5T – Cancel Disaster Set-Aside transaction in DLS.

B Reversing DSA

[7 CFR 766.61] If the Agency determines that the borrower received an unauthorized DSA, the Agency will reverse the DSA after all appeals are concluded.

If FSA determines that the borrower received unauthorized DSA assistance, the borrower will be notified and meetings scheduled according to Part 10.

If FSA still believes DSA was unauthorized after the meetings and once any borrower appeals have been exhausted in FSA's favor, FSA will reverse the set-aside by reinstating the borrower's original payment terms as if FSA had never granted DSA to the borrower. In reversing DSA, the authorized agency official must:

- ***--notify NFAOC, FaSB in writing to reverse DSA--***
- attach this notification to FSA-2501, which should remain stapled to the promissory note or assumption agreement.

If a borrower becomes financially distressed or delinquent after FSA reverses DSA, the authorized agency official services the borrower's account according to Parts 3 and 4.

Section 2 FSA's Decision

226 Approval Authority

A Approval Authority for Servicing Actions

*--Any authorized agency official has the authority to approve primary loan servicing, except SED must approve all primary loan servicing actions:

- that result in debt forgiveness, or
- when the borrower (or any entity member) has received primary loan servicing 2 or more times in the previous 5 years.--*

Note: Once SED approval has been obtained, the authorized agency official may approve the credit action in FBP and complete the loan servicing action.

227, 228 (Reserved)

249 Closing Write-Downs**A Introduction**

FLP loans can be fully or partially written down.

Loans that are partially written down must be fully restructured. FSA will also reschedule, reamortize, or defer, as applicable, all loans written down through primary loan servicing according to paragraphs 247, 248, and/or this paragraph.

B Closing Write-Down

The authorized agency official will:

- *--ensure that the payments on FSA-2026's match the final eDALR\$ report--*
- mark the existing promissory note or assumption agreement "Satisfied by Approved Debt Writedown" if the loan is completely written down or "Restructured with Partial Debt Writedown" if the loan is partially written down, and attach it to the new FSA-2026
- attach the promissory note, if required, to the new FSA-2026
- file FSA-2026 according to 25-AS
- provide a copy of the new FSA-2026 to the borrower at closing
- *--file the original eDALR\$ report in Position 3.--*

249 Closing Write-Downs (Continued)**C SAA Required**

[7 CFR 766.201] (a) The Agency requires a borrower to enter into a SAA with the Agency covering all real estate security when the borrower:

- (1) Owns any real estate that serves or will serve as loan security; and**
- (2) Accepts a writedown in accordance with section 766.111 (paragraph 172).**

FSA requires FSA-2543 when debt is written down on a loan secured by real estate. If the specific loans that are to be written down are not secured by real estate before the current servicing action, FSA-2543 does not need to be completed even if other serviced loans are secured by real estate.

See Part 9, Section 1 for details on servicing SAA's.

A borrower will execute FSA-2543 and it will remain attached to the new FSA-2026. Copies of FSA-2543 will be attached to all copies of FSA-2026.

D Processing Write-Down

The authorized agency official will process a 3R – Shared Appreciation Writedown transaction in DLS Special Servicing to record the write-down and to establish an equity record for the debt written down. The equity record will establish an account for the amount of the SAA recapture that may come due.

The equity record will be for the total amount of debt written down on all loans, including those not secured by real estate. This total amount will be used when recording the DLS transactions and also used when completing FSA-2543.

E Additional Security Required

The borrower must agree to additional liens on available security according to paragraph 211. FSA's real estate and chattel liens will be maintained by cross collateralization even if all real estate or chattel type loans are written off.

***--250 Additional Closing Requirements**

A Managing Pre-Authorized Debit (PAD) for Servicing

When PLS actions are being closed on a loan with a PAD, the County Office must FAX a detailed memo to the Cash Management Collections Branch at 314-457-4370 (if using fax2mail, type “//FINE” at the end of the subject line) to terminate the original RD 3550-28. To avoid additional payment withdrawals this should be done at least 5 business days before the termination request date.

The County Office will notify the borrower that PAD is being cancelled to process the restructuring or assumption. A record of the notification will be kept in the case file (or FBP if appropriate). This is not an adverse decision.

After restructure of a loan formerly on PAD, the County Office will notify the borrower of the continued availability of PAD and provide the borrower with RD 3550-28. A record of the notification will be kept in the case file (or FBP if appropriate).

A new RD 3550-28 will need to be FAXed to the Cash Management Collections Branch at 314-457-4370 (if using fax2mail, type “//FINE” at the end of the subject line) for each new loan created by a restructuring or assumption.--*

251-280 (Reserved)

777 Exceptions to General Policies***--A Property Leased to Beginning Farmers or Socially Disadvantaged Farmers**

[7 CFR 767.152] The Agency's disposition procedure under § 767.151 (paragraph 776) is subject to the following:

(a) If the Agency leases inventory real property to a beginning farmer or socially disadvantaged farmer in accordance with § 767.101(a)(2) (subparagraph 741 A), and the lease expires, the Agency will not advertise the property if the beginning farmer or socially disadvantaged farmer is approved to purchase the property and the Agency has direct or guaranteed loan funds available to finance the transaction.

If the selected beginning farmer or socially disadvantaged farmer develops a feasible plan and FSA funding is not available to close the sale, then the authorized agency official will lease the property to the beginning farmer or socially disadvantaged farmer according to Part 20.

If the beginning farmer or socially disadvantaged farmer chooses not to enter into a lease,--* the property will be offered to the next person on the list of eligible applicants.

B Homestead Protection Notification

[7 CFR 767.152(b)] The Agency will not advertise a property for sale until the Homestead Protection rights have terminated in accordance with part 766, subpart D (Part 7) of this chapter.

Before the authorized agency official initiates the sale of the property, the authorized agency official verifies and documents in the file that:

- FSA has properly notified the borrower of the borrower's homestead protection rights
- all preservation rights have expired according to Part 7.

C Conservation Easements or Environmental Contamination Reviews

[7 CFR 767.152(c)] The Agency may allow an additional 60 days if needed for conservation easements or environmental reviews.

Before initiating the sale of inventory property, the authorized agency official acts according to Part 22 to protect environmental and cultural resources.

777 Exceptions to General Policies (Continued)

D Negative Effect on Value of Farms

[7 CFR 767.152(e)] If Agency analysis of farm real estate market conditions indicates the sale of Agency farm inventory property will have a negative effect on the value of farms in the area, the Agency may withhold inventory farm properties in the affected area from the market until further analysis indicates otherwise.

--SED conducts this analysis as often as necessary based on market conditions. SED-- notifies, through an FLP notice, the appropriate Field Offices servicing those areas that are restricted from selling inventory property.

E American Indian Borrower

[7 CFR 767.152(d)] If the property was owned by an American Indian borrower and is located on an Indian reservation, the Agency will:

(1) No later than 90 days after acquiring the property, offer the opportunity to purchase or lease the property in accordance with:

(i) The priorities established by the Indian Tribe having jurisdiction over the Indian reservation;

(ii) In cases where priorities have not been established, the following order:

(A) A member of the Indian Tribe that has jurisdiction over the Indian reservation;

(B) An Indian entity;

(C) The Indian Tribe.

(2) Transfer the property to the Secretary of the Interior if the property is not purchased or leased under paragraph (1) of this section.

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

Forms (Continued)

Number	Title	Display Reference	Reference
IRS Form 1099-C	Cancellation of Debt		409
NRCS-CPA-026 NRCS-CPA-026E	Highly Erodible Land and Wetland Conservation Determination		81, 801
RD 1956-1	Application for Settlement of Indebtedness		Text
RD 3550-28	Authorization Agreement for Preauthorized Payments		50

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ACL	Accelerated	534, Ex. 11
BAP	Bankruptcy Action Pending	401, Ex. 11
CAP	Court Action Pending	421, Ex. 11
CL	Conservation Loan	41, 131, 145, Ex. 2, 17
CONACT	Consolidated Farm and Rural Development Act	1, 193, 537, Ex. 2
DEF	Deferral	248, Ex. 11
DLD	Direct Loan Division	Text, Ex. 80
eDALR\$	electronic Debt and Loan Restructuring System	Text, Ex. 17
FAP	Foreclosure Action Pending	567, Ex. 11
FLMAC	Farm Land Market Advisory Committee	Ex. 17
HML	high, medium, low	901
ISA	installment set-aside	46, 48, 131
ITLAP	Indian Tribal Land Acquisition Program	2, 537
LR	limited resource	132, 146
NFAOC	National Financial and Accounting Operations Center	Text, Ex. 11, 80
NP	nonprogram loan	Text
NRBRA	Net Recovery Buyout Recapture Agreement	321, 361, 363, 365
NRV	net recovery value	102, 321
PAD	Pre-Authorized Debit	250
PLS	primary loan servicing	67, 68, 401, Ex. 11
PRB	Program Reports Branch	708
RH	rural housing	Ex. 79

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

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
SA	shared appreciation loan	66, 67, 102, 145, 146, 191, 346
SAA	shared appreciation agreement Note: When reference is made to a signed agreement as a condition of receiving debt writedown.	197, 249, 343, 344, 346, 403, Ex. 2, 4, 25, 26
SAA	subject to approved adjustment Note: When reference is made to the financial “flag”/designation for an account where FSA has approved a borrower’s debt settlement offer as documented on RD-1956-1.	172, 249, 343, 404, 406, Ex. 11
SCRRG	State Civil Rights Review Group	533
SEC	State Environmental Coordinator	802, 821, 837, 839
SI	Security Instrument	344, 346
SOL	Statute of Limitations	126, 127
ST	softwood timber loan	41
TPJ	third party judgment	421, Ex. 11
YL	youth loan	41, 42, 68, 132

Delegations of Authority

None.

State Supplements

The following table lists required State supplements.

Subparagraph	Required State Supplement
3 C	Guidance on Notary Acknowledgement
3 D	Guidance on Signature Requirements
3 F	Using State-Specific and State-Created Forms
104 A	Obtaining PLS Appraisals
196 B	Filing of Conservation Contracts
229 B	State-Certified Mediation Requirements
247 B	Closing Reamortized Loans
302 A	Homestead Protection According to State Laws
343 B	Real Estate Appraisals for Determination of SAA Recapture
345 C	Satisfying Shared Appreciation Agreements (SAA) According to State Laws
346 E	Maintaining Lien Position When Amortizing SAA Recapture
401 E	State Policies and Procedures for Bankruptcy
402 F	Reaffirmation of Debt
--421 C--	State Policies and Procedures for Civil and Criminal Actions
443 C	Managing the Liquidation Process
462 B	Title Searches
464 B	Lien Searches
498 A	Convergence of Rights With Real Property
531 A	Loan Acceleration
533 A	Case File Preparation for Acceleration
533 E	Determination of Property Value Prior to Acceleration
534 E	Notification of Prior Lienholders After Acceleration
535 C	Partial Payments After Acceleration
551 A	General Involuntary Liquidation
566 D	Real Property Foreclosures
567 C	Bidding at Foreclosure Sales
568 A	Acquisition of Inventory Property
568 E	Addressing Outstanding Loan Balances After Real Estate Foreclosure
551 D	Calculating Amount To Be Reported to DOJ
601 A	Third-Party Foreclosures
601 C	Contract Forfeiture
602 A	Prior Lienholder Liquidation
604 E	Redemption Rights

State Supplements (Continued)

Subparagraph	Required State Supplement
705 C	Custodial Property
707 F	Removal of Abandoned Vehicles From Inventory Property
724 A	Taxes on Inventory Real Property
776 D	Advertisement of Inventory Property for Sale
776 F	Contracting With Real Estate Brokers to Sell Inventory Property
778 E	Sale of Inventory Property
Exhibit 17, subparagraph 5 F	<ul style="list-style-type: none">• Estimated Cost and Average Holding Period• Factors to Use When Adjusting Market Value. <p>* * *</p>

***--Instructions for Using eDALR\$ (Continued)**

4 eDALR\$ Formulas (Continued)--*

J Debt Writedown and Buyout Limitation

eDALR\$ attempts to develop a feasible plan with a 10 percent debt service margin. All program loan servicing, excluding writedown, is considered before reducing the debt service margin. eDALR\$ will consider writedown only if all of the following conditions are met.

- The borrowers have not received the lifetime limitation for writedown or writeoff with buyout.
- At least 1 program loan is delinquent.
- The debt service margin is at zero percent.

If a feasible plan is found with writedown, eDALR\$ determines the amount of writedown necessary for the borrower to have a positive cash flow.

- If the amount of the writedown is less than or equal to \$300,000, a feasible plan has been found.
- If the amount of writedown is greater than \$300,000 and the debt service margin equals 1.00, or a feasible plan cannot be developed, eDALR\$ determines the amount of--* writeoff, with buyout at the current market value.
- If the amount of writeoff, with buyout at the current market value, is less than or equal to \$300,000, the borrower is offered buyout.
- If the amount of writeoff, with buyout at the current market value, is greater than \$300,000, the borrower is not eligible for loan servicing or buyout and the borrower is offered debt settlement.

Instructions for Using eDALR\$ (Continued)

5 Periodic Data

A Administrative Liquidation Costs

The administrative liquidation costs for each loan type are provided in the following table.

Loan Type	Calculation	Cost
OL	*--(3063 ÷ 60 = 51.05) X \$24.83 =	\$1,268
FO/SW/CL	(3063 ÷ 60 = 51.05) X \$24.83 =	\$1,268
EM/EE	(3063 ÷ 60 = 51.05) X \$24.83 =	\$1,268
RH (Used for RHF loans only.)	(3063 ÷ 60 = 51.05) X \$24.83 =	\$1,268--*

Note: Costs were calculated using the most recently available Delphi study for the average number of hours spent on a liquidation activity by FSA employees, and used the *--2016 GS-11/1 hourly pay rate. The Delphi study is a nationwide survey and--* forecasting tool that records averages of times and actions on FSA accounts.

B Legal Liquidation Costs

Legal liquidation costs will be determined for real estate and chattel foreclosures, as well as chattel-only foreclosures. These costs estimate liquidation costs for Government attorney time for foreclosure cases in both judicial and nonjudicial foreclosure States and will vary by State. Legal liquidation cost estimates should be determined based on the costs that have been incurred during past liquidations in that State. U.S. Attorney Office costs should only be included in States where judicial foreclosures are required.

C Determining Chattel Costs

Chattel costs are determined based on the following:

- “Months Held in Inventory” - FSA rarely acquires chattel property because it can be sold much more quickly and easily than real estate. Therefore, the average holding period for chattel property will be zero, unless the Administrator approves chattel acquisitions and determines that chattels do have a holding period.

Note: If significant acquisitions occur and a chattel holding period becomes necessary, States will contact the National Office for guidance and provide detailed information about the acquisition and planned disposal of the chattel property.

- “Sales Commission Rate” - Authorized agency official will conduct a survey of auctioneers to determine the average commission rate for chattel sales in the area.
- “Other Sales Costs” - These are miscellaneous costs typically incurred when selling acquired chattels. County Offices should request State Office guidance in unusual cases.
- “Rate of Change in Value” - This is a yearly percentage decrease or increase in the value of the property. The normal rate of change in value for chattels will be zero as FSA rarely acquires chattel property.

Instructions for Using eDALR\$ (Continued)

5 Periodic Data (Continued)

F State Supplement

SED's will issue a state supplement to:

- address the estimated costs and average holding period to be used in making calculations of net recovery value
- provide the factors to use in adjusting market value.

Note: The State supplement shall be issued after completing the cost analysis, but no
*--later than 60 calendar days after the updates to administrative liquidation costs
have been issued.--*

Instructions for Using eDALR\$ (Continued)

5 Periodic Data (Continued)

G Determining Property Management Costs

Property Management Cost is the administrative cost of managing a property while the property is being held in FSA inventory. The cost will be deducted in cases involving real property. The following worksheet is used to calculate the property management costs. Delphi data standards are used and average actions per month per the national average from the Delphi Study for required actions per property are also put into the formula. Complete the worksheet by using the average holding period of inventory property determined according to subparagraph C. An example has been completed based on national average data with an average holding period of 5.5 months.

Determining Property Management Costs

Step	Action
1	(<u> .215 </u> X <u> 5.5 </u> = <u> 1.1825 </u>) Average Actions Per Property/Month Average Holding Period
2	(<u> 180 </u> ÷ <u> 60 </u> = <u> 3 </u>) Delphi Data for Real Estate Loans
--3	(<u> 1.1825 </u> X <u> 3 </u> X <u> 24.83 </u> = <u> 88.08 </u>)-- Amount from Step 1 Amount from Step 2 2016 GS 11/1 Hourly Pay
4	(<u> 648 </u> ÷ <u> 60 </u> = <u> 10.8 </u>) Delphi Data for Inventory Actions
*--5	(<u> 10.8 </u> X <u> 24.83 </u> = <u> 268.16 </u>) Amount from Step 4 2016 GS 11/1 Hourly Pay
6	(<u> 88.08 </u> + <u> 268.16 </u> = <u> 356.00 </u>)--* Amount from Step 3 Amount From Step 5 Administrative Costs for Inventory Property (Rounded to nearest \$)