UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Direct Loan Servicing – Special and Inventory Property Management 5-FLP	**Amendment 64**

Approved by: Deputy Administrator, Farm Loan Programs

Amendment Transmittal

A Reasons for Amendment

Subparagraph 9 A and 67 C have been amended to update the LexisNexis instructions reference to 1-FLP.

Subparagraph 10 B has been amended to clarify the use of FSA-2091.

Subparagraphs 46 A and 55 B have been amended to update Exhibit 10 to FSA-2505.

Subparagraphs 46 F, 48 A, 48 B, 58 B, 248 C, 341 A, 387 D, 407 B, 421 H, 536 C, 537 F, 568 B, 568 C, 708 B, 742 D, 742 E, and 743 B have been amended to update RDBSCO to RD Business Center.

Subparagraph 54 A has been amended to add a note about borrower screening.

Subparagraph 65 A has been amended to update:

- Exhibit 10.5 to FSA-2506
- 4-FLP, Exhibit 31 to FSA-2413.

Subparagraph 67 A has been amended to provide an example for servicing notifications required when a co-borrower is not liable for delinquent loan.

Subparagraph 67 C has been amended to provide instructions for obtaining a current postal address using LexisNexis for returned “address unknown” servicing packages.

Subparagraph 68 A has been amended to update:

- Exhibit 13 to FSA-2508
- Exhibit 14 to FSA-2509.

Subparagraph 81 C has been amended to remove FSA-2001.

A Reasons for Amendment (Continued)

Subparagraph 81 H has been amended to clarify when a credit report will be obtained and who is responsible for the credit report fee.

Subparagraph 102 E has been amended to refer to Lexis Nexis assistance when identifying non-essential assets.

Subparagraph 132 A has been amended to clarify the consolidation process.

Subparagraph 194 A has been amended to update a reference to partial release examples.

Subparagraphs 248 B and 249 B have been amended to clarify that all eDALR$ reports used for approval and post-approval updates be included in the case file.

Subparagraph 300 B has been amended to allow the use of 18-month-old appraisals when determining sale price of Homestead Protection Tract.

Subparagraph 321 B has been amended to update the paragraph reference.

Subparagraph 341 B has been amended to update Exhibit 25 to FSA-2546.

Subparagraph 344 B has been amended to require FSA-2545 to be sent by certified mail with receipt.

Subparagraph 344 C has been amended to add a reference to FSA-2091 for an incomplete shared appreciation application.

Subparagraph 344 D has been amended to update instructions on using FSA-2525.

Subparagraph 345 E has been added to provide instructions on processing a borrower's repayment of previous losses resulting from shared appreciation repayment.

Subparagraph 346 A has been amended to update the paragraph reference.

Subparagraph 346 H has been amended to update instructions on notifying the borrower.

Subparagraphs 387 B, C, and F have been amended to update Exhibit 31 to FSA-2549.

Subparagraphs 401 E, 401 F, 402 F, 405 C, and 407 B have been amended to update Exhibit 34 to FSA-2573.

A Reasons for Amendment (Continued)

Subparagraph 407 B has been amended to update:

- FSA actions when a primary borrower or co-borrower is discharged in bankruptcy and a liable party remains

- Exhibit 34.5 to FSA-2577

- Exhibit 35 to FSA-2578.

Subparagraph 421 G has been amended to:

- update paragraph references for pursuing deficiency judgements
- cross-reference Lexis Nexis guidance.

Subparagraph 444 B has been amended to update:

- Exhibit 38 to FSA-2527
- Exhibit 39 to FSA-2528
- Exhibit 40 to FSA-2552
- Exhibit 41 to FSA-2553
- paragraph 533 to paragraph 532.

Subparagraph 531 A has been amended to:

- update Exhibit 48 to FSA-2555
- update Exhibit 49 to FSA-2556
- update Exhibit 50 to FSA-2557
- update Exhibit 51 to FSA-2558
- add paragraph 444 reference for acceleration of NP only accounts.

Subparagraph 531 C has been removed.

Paragraph 532 has been amended to provide instructions for conditions for acceleration.

Paragraph 533 has been amended to update acceleration actions.

Subparagraph 534 A has been amended to remove the paragraph 533 reference.

Subparagraphs 534 C and 537 A have been amended to:

- provide clarification on proceeding with acceleration
- replace SED with FLC for instruction on borrowers in military service.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 534 D has been amended to update:

- Exhibit 48 to FSA-2555
- Exhibit 49 to FSA-2556
- Exhibit 50 to FSA-2557
- Exhibit 51 to FSA-2558.

Subparagraph 536 C has been amended to update the process for requesting FSA-2561 from RD Business Center.

Subparagraph 537 A has been amended to cross-reference subparagraph 532 B and paragraph 533.

Subparagraph 537 B has been amended to remove a CFR reference when selling real estate.

Subparagraph 537 C has been amended to update:

- Exhibit 52 to FSA-2559
- Exhibit 53 to FSA-2564
- Exhibit 54 to FSA-2563.

Subparagraph 537 D has been amended to:

- remove language referring to exhausting servicing rights in the responsibilities section
- update Exhibit 52 to FSA-2559
- update Exhibit 53 to FSA-2564
- update Exhibit 54 to FSA-2563
- cross-reference paragraphs 533 and 534 for problem case report actions.

Subparagraph 537 E has been amended to:

- update Exhibit 55 to FSA-2565
- update Exhibit 56 to FSA-2566
- update Exhibit 57 to FSA-2567
- correct LSPMD FedEx or UPS Delivery address.

Subparagraph 551 C has been amended to add language for conditions for involuntary liquidation.

Subparagraphs 566 E and 602 A have been amended to provide guidance on handling judicial foreclosures in non-judicial foreclosure States when there is a junior federal lien.

Subparagraph 706 C has been amended to update Exhibit 65 to FSA-2583.

Subparagraph 708 B has been amended to update Exhibit 66 to FSA-2584.

A Reasons for Amendment (Continued)

Subparagraph 781 B has been amended to update Exhibit 70 to FSA-2589.

Subparagraph 784 B has been amended to update Exhibit 71 to FSA-2568.

Exhibit 4 has been amended to remove acceleration case file preparation from required State supplements.

Exhibit 58 has been amended to update foreclosure guidance for non-judicial States where judicial foreclosure is required when the federal government is in junior lien position.

To improve customer service and to comply with the Paperwork Reduction Act, the following exhibits have been withdrawn and converted to forms:

- Exhibit 10 is now FSA-2505
- Exhibits 10.5 and 32 have been combined and are now FSA-2506
- Exhibit 13 is now FSA-2508
- Exhibit 14 is now FSA-2509
- Exhibit 25 is now FSA-2546
- Exhibit 31 is now FSA-2549
- Exhibit 34 is now FSA-2573
- Exhibit 34.5 is now FSA-2577
- Exhibit 35 is now FSA-2578
- Exhibit 38 is now FSA-2527
- Exhibit 39 is now FSA-2528
- Exhibit 40 is now FSA-2552
- Exhibit 41 is now FSA-2553
- Exhibit 48 is now FSA-2555
- Exhibit 49 is now FSA-2556
- Exhibit 50 is now FSA-2557
- Exhibit 51 is now FSA-2558
- Exhibit 52 is now FSA-2559
- Exhibit 53 is now FSA-2564
- Exhibit 54 is now FSA-2563
- Exhibit 55 is now FSA-2565
- Exhibit 56 is now FSA-2566
- Exhibit 57 is now FSA-2567
- Exhibit 65 is now FSA-2583
- Exhibit 66 is now FSA-2584
- Exhibit 70 is now FSA-2589
- Exhibit 71 is now FSA-2568.

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5 Introduction to Direct Loan Servicing – Special and Inventory Property Management (Continued)

B Inventory Property Management

[7 CFR 767.1(a)] This part describes the Agency's policies for

(1) Managing inventory property;

(2) Selling inventory property;

(3) Leasing inventory property;

(4) Managing real and chattel property the Agency takes into custody after abandonment by the borrower;

(5) Selling or leasing inventory property with important resources, or located in special hazard areas; and

(6) Conveying interest in real property for conservation purposes.

[7 CFR 767.1(b)] The Agency maintains, manages and sells inventory property as necessary to protect the Agency's financial interest.

6 ECOA Requirements for Actions Involving Real Estate Security

A Release of Real Estate Appraisals

Equal Credit Opportunity Act (ECOA) requires the Agency to provide a copy of a written real estate appraisal or valuation performed on any real estate that is pledged as security as part of an application for FSA assistance. For servicing actions authorized by this handbook that involve FSA completing any real estate valuation, local offices will comply with the requirements of 1-FLP paragraph 148 to provide a copy of the valuation to the borrower, when applicable.

7 Non-Procurement Debarment and Suspension

A Covered Transactions

Information will be provided once automation has been developed.

B System for Award Management (SAM) Exclusions

Information will be provided once automation has been developed.

8 (Reserved)

9 LexisNexis

A Use of LexisNexis

LexisNexis provides computer-assisted legal, business, and risk management research services. Its Accurint system provides efficient search technology to locate real estate transactions and ownership data; lien, judgment, and bankruptcy records; as well as professional license information and historical addresses. This information is useful for eDALR$ and judgements.

--**See 1-FLP, paragraph 63 for instruction on the use of LexisNexis.**--

10 Processing Incomplete Loan Servicing Applications

A Determining if Application is Complete

Except for Primary Loan Servicing under Part 3, Homestead Protection Program under Part 7, and Conservation Contracts for financially distressed borrowers, incomplete servicing applications will be processed under this paragraph.

10 Processing Incomplete Loan Servicing Applications (Continued)

B Initial Notification of Incomplete Servicing Application

--Note:** This subparagraph does not apply to PLS in Part 3.**--

Within 7 calendar days of receipt of an incomplete direct loan servicing application, the agency official will use FSA-2091 to provide the applicant with written notice of any required additional information. The applicant must provide the additional information within 30 calendar days of the date FSA-2091 is sent.

If the 30th 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.

FSA-2091 will:

- list the required additional information
- 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 have difficulty obtaining the required information
- establish a due date for receiving the information of 30 calendar days from the date of FSA-2091 was sent.

C Final Notification of Incomplete Servicing Application

If a complete direct loan servicing application is not received within 30 calendar days of the date FSA-2091 was sent, the application will be withdrawn and the borrower notified using FSA-2092. FSA-2092 will state the reason for withdrawal and that the application is withdrawn effective the date of FSA-2092 is sent.

Note: Borrowers may voluntarily withdraw an application at any time in writing. FSA-2092 will be sent when an application is voluntarily withdrawn.

A direct loan servicing application that has been withdrawn may not be reactivated. A new direct loan servicing application may be filed, and any information that is still current from the withdrawn application may be included with the new application. Information that is less than 90 days old, unless otherwise noted, is considered current.

11-40 (Reserved)

45 DSA Eligibility and Limitations (Continued)

C Borrowers in Bankruptcy

When FSA receives a request for DSA from a borrower, co-borrower, or related entity that has filed for bankruptcy, FSA will consult with OGC to determine if and how the bankruptcy impacts the farm operation and FSA debt, and whether court approval of the DSA is required. If court approval is required, the appropriate documentation must be received before eligibility is determined according to subparagraph 43 B.

A borrower who does not have a confirmed reorganization bankruptcy plan may be eligible for DSA, provided the borrower addresses the terms of the DSA as part of the confirmed bankruptcy plan.

A borrower who has re-affirmed FSA debt or has successfully completed a reorganization bankruptcy and is no longer under bankruptcy court jurisdiction is eligible for DSA, subject to the eligibility and limitations in subparagraphs A and B.

Note: A borrower discharged under a chapter 7 bankruptcy who failed to re-affirm FSA debt is not eligible for DSA. See subparagraph 407 B [7 CFR 766.303(c)].

D Borrowers Paying Under a Debt Settlement

A borrower paying FSA under a Debt Settlement Adjustment Agreement is not eligible for DSA.

E Limitations

[7 CFR 766.53(a)] The DSA amount is limited to the lesser of:

***--(1) The first or second scheduled annual installment on the Agency loans due after the disaster occurred; or**

(1) The amount the borrower is unable to pay the Agency due to the disaster. Borrowers--* are required to pay any portion of an installment they are able to pay.--*

[7 CFR 766.53(b)] The amount set-aside will be the unpaid balance remaining on the installment at the time the DSA is complete. This amount will include the unpaid interest and any principal that would be credited to the account as if the installment were paid on the due date, taking into consideration any payments applied to principal and interest since the due date.

--[7 CFR 766.53(c)] Recoverable cost items may not be set aside.--

46 DSA Approval

A Decision

[7 CFR 766.55] Within 30 days of a complete DSA application, the Agency will determine if the borrower meets the eligibility requirements for DSA.

The authorized agency official must prepare a Special Servicing credit action in FBP to document the decision about eligibility/approval. Borrowers will be notified of the decision by letter within 5 working days after the decision is made. The letter will be hand delivered with borrower acknowledgement in position 4 of the case file or sent by regular mail.
--**See FSA-2505 for an example of an affirmative letter. Rejection letters will be prepared**-- according to 1-APP.

If the borrower does not execute all required agency documents within the required timeframe, the DSA request will be rejected and the authorized agency official will notify the borrower according to 5-FLP, subparagraph 47 A.

Note: If a borrower applies for DSA concurrently with a request for a partial release of security or an extension of maturity date for direct loans with balloon installments, the DSA request must be processed prior to issuing a decision on the partial release or extension of maturity date for direct loans with balloon installments.

B Borrower Acceptance of DSA

[7 CFR 766.57] The borrower must execute the appropriate Agency documents within 45 days after the borrower receives notification of Agency approval of DSA.

Subject to the 165-calendar-day limitation in subparagraph 45 A, the borrower must sign FSA-2501 within 45 calendar days (48 calendar days if the letter is sent by mail to allow 3 calendar days for delivery) of the date of FSA's approval letter for each loan DSA. Any exception must be requested according to paragraph 4.

If the borrower does not execute all required agency documents within the required timeframe, the DSA request will be rejected and the authorized agency official will notify the borrower according to 5-FLP, subparagraph 47 A.

C Required Forms

In closing a borrower's approved DSA request, the authorized agency official will:

- prepare an original and 2 copies of FSA-2501
- staple the signed original on top of the original promissory note or assumption agreement filed in the fire-proof safe
- staple 1 of the 2 copies of FSA-2501 to the copy of the promissory note or assumption agreement filed in position 2 of the borrower's case file
- give the second copy of FSA-2501 to the borrower.

46 DSA Approval (Continued)

D 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.

E 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.

F 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. RD Business Center 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.

47 Adverse Determinations

A Notifying Borrowers of Adverse Determinations

DSA applications that do **not** meet the DSA requirements or timeframes will be rejected. The borrower will be notified of the adverse decisions by letter detailing which requirements they did not meet and providing appeal rights according 1-APP. See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.

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 766.60I] The borrower pays the set-aside installment.

--**If the borrower pays the set-aside installment, the office shall contact RD Business Center,**-- FLB 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 RD Business Center, FLB 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.

*--54 DBSA Eligibility and Limitations (Continued)

D Borrowers Paying Under a Debt Settlement

A borrower paying FSA under a Debt Settlement Adjustment Agreement is not eligible for DBSA.

E Limitations

[7 CFR 766.453(a)] The DBSA amount is limited to the lesser of:

(1) The amount of the delinquent installment or upcoming scheduled installment; or

(2) The amount the borrower is unable to pay the Agency. Borrowers are required to pay any portion of an installment they are able to pay.

[7 CFR 766.453(b)] The amount set aside will be the unpaid balance remaining on the installment at the time DBSA is complete. The amount will include the unpaid interest and any principal that would be credited to the account as if the installment were paid on the due date, taking into consideration any payments applied to principal and interest since the due date.

[7 CFR 766.453(c)] Recoverable cost items may not be set aside.--*

55 DBSA Approval

A Borrower Acceptance and Decision

[7 CFR 766.455] Subject to the 165 calendar day limitation in § 766.452(a)(8), the borrower must execute the appropriate Agency documents within 45 days after the borrower receives notification of Agency approval of DBSA, which will be within 30 days of having submitted a complete application.

The agency must notify the borrower of DBSA approval within 30 days of receiving a complete application.

FSA-2501 must be signed by the borrower within 45 calendar days of the date of FSA's approval decision (or within 48 days if sent by regular mail to allow 3 days for mail delivery). FSA-2501 must be executed before the loan becomes 165 days or more past due (as outlined in subparagraph 54 A), and before the remaining term of the loan becomes less than 2 years from the due date of the DBSA agreement (as outlined in subparagraph 54 B). If either of these conditions exist, the loan is no longer eligible for DBSA.

If the borrower does not execute all required agency documents within the required timeframe, the DBSA request will be rejected and the authorized agency official will notify the borrower according to subparagraph 57 A.

B Agency Decision

The authorized agency official must prepare a Special Servicing credit action in FBP to document the decision about eligibility or approval. The FBP should include actual production and income and expense records as well as a cash flow projection to document the distress and lack of a feasible plan without the DBSA. Borrowers will be notified of the decision by letter within 5 working days after the decision is made. The letter will be hand delivered with borrower acknowledgement in position 4 of the case file or sent by regular ***--**mail. See FSA-2505 for an example of an affirmative letter. Rejection letters will be**--*** prepared according to 1-APP.

Note: If a borrower applies for DBSA concurrently with a request for a partial release of security or an extension of maturity date for direct loans with balloon installments, the DBSA request must be processed before issuing a decision on the partial release or extension of maturity date for direct loans with balloon installments.

C Required Forms

In closing a borrower's approved DBSA request, the authorized agency official will:

- prepare an original and 2 copies of FSA-2501
- staple the signed original on top of the original promissory note or assumption agreement filed in the fire-proof safe
- staple 1 of the 2 copies of FSA-2501 to the copy of the promissory note or assumption agreement filed in position 2 of the borrower's case file
- give the second copy of FSA-2501 to the borrower.

58 Canceling and Reversing DBSA

A Canceling DBSA

[7 CFR 766.457(a)] The Agency will cancel a DBSA agreement if the Agency takes any PLS action on the loan;

Office will follow interim guidance until modernization of FLP systems are completed.

[7 CFR 766.457(b)] The Agency will cancel a DBSA agreement if the borrower pays the:

(1) Current market value buyout in accordance with § 766.113; or

(2) The set-aside installment.

Office will follow interim guidance until modernization of FLP systems are completed.

B Reversing DBSA

[7 CFR 766.458] If the Agency determines that the borrower received an unauthorized DBSA, the Agency will reverse the DBSA after all appeals are concluded.

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

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

- ***--**notify RD Business Center, FLB in writing to reverse DBSA**--***
- attach this notification to Form FSA-2501, which should remain stapled to the promissory note or assumption agreement.

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

59-64 (Reserved)

Part 3 Loan Servicing – General Procedures

65 Borrower Non-Compliance With Loan Agreements

A Documenting Non-compliance

Borrowers must be in compliance with loan agreements to be eligible for loan servicing options. Non-compliance will be documented in the FBP running record by the authorized agency official. Documentation must include:

- type, nature, circumstances, and reasons for non-compliance
- any actions taken by the borrower to correct the non-compliance
- requirements of 4-FLP, subparagraph 181 A for conversion
- requirements of 5-FLP, Part 10 for unauthorized assistance.

Note: Failure to complete borrower training is not a non-compliance issue for loan servicing. See 3-FLP, subparagraph 474 C for loan making restrictions for failure to complete borrower training.

Borrowers in non-compliance will be given the opportunity to correct the matter whenever possible. The borrower will be contacted and provided the opportunity to explain the *--potential non-compliance using FSA-2504 or FSA-2413 for conversion (4-FLP, Part 7,--* Section 2). The borrower will also be initialized into DLS Special Servicing under "Borrower Potentially Commits a Non-monetary Default" category and tracked until servicing is completed. Any response received from the borrower will be documented in FBP and any supporting documentation will be included in the case file. The authorized agency official will review the borrower's response and determine if the potential non-compliance has been satisfactorily resolved. If the issue is resolved, the FBP running record will be documented and no further action will be taken.

***--Notes:** In situations where all liable parties are deceased, FSA-2506 or FSA-2413 will be--* sent to the appropriate estate(s) as this will provide notification to the heirs.

In extraordinary circumstances the authorized agency official may determine that borrower resolution of non-compliance is not feasible. In these cases, the SED or FLC will contact LSPMD for further instructions.

B Non-monetary Default

--Third party foreclosures, failure to pay real estate taxes or insurance, agency inability to approve a shared appreciation amortization application, and agency payment of UCC-- renewal fees are non-monetary default decisions that can be made by the authorized agency official. If the authorized agency official determines that the non-compliance has not been resolved and the borrower is in non-monetary default, the account will be referred to SED for concurrence. FSA-2551 will be prepared by the local office and must include all pertinent information, documentation, and any responses provided by the borrower regarding the potential non-compliance. FSA-2551 and all documentation will be forwarded to SED for concurrence of non-monetary default determination. OGC concurrence is not required.

65 Borrower Non-Compliance With Loan Agreements (Continued)

C Lack of Good Faith

--**SED will determine if a lack of good faith determination will be pursued. OGC concurrence is not required but can be pursued if SED determines it is warranted. OGC can make its own independent lack of good faith determinations that may result in the case being submitted for civil or criminal action as described in Part 11. In all cases, a lack of good faith determination must be made for each decision according to 3-FLP, subparagraph 65 A.**--

66 Borrower Notification (Continued)

A General Requirements (Continued)

[7 CFR 766.101(a)] (3) Are in non-monetary default on any loan agreements;

For further information about compliance with loan agreements, see 4-FLP, Part 6.

The borrower's non-compliance must be determined according to paragraph 65 before being provided with Primary Loan Servicing notifications.

[7 CFR 766.101(a)] (4) Have filed bankruptcy;

When FSA learns that a borrower has filed for bankruptcy, FSA will service the borrower's account according to Part 11.

[7 CFR 766.101(a)] (5) Request this information;

The authorized agency official will record a borrower's request for a loan servicing notification package in the borrower's FBP running record or place the written request in the borrower's file.

[7 CFR 766.101(a)] (6) Request voluntary conveyance of security;

The authorized agency official will send a loan servicing notification package to a borrower requesting full liquidation by voluntary conveyance, unless the borrower was previously notified and is already being serviced according to this part.

[7 CFR 766.101(a)] (7) Have only delinquent SA; or

FSA will notify delinquent NP borrowers who have only SA amortization agreements.

[7 CFR 766.101(a)] (8) Are subject to any other collection action, except when such action is a result of failure to graduate. Borrowers who fail to graduate when required and are able to do so, will be accelerated without providing notification of loan servicing options.

67 Providing Loan Servicing Notification Package

A Forms for Notifying Borrowers

[7 CFR 766.101(b)] The Agency will notify borrowers of the availability of primary loan servicing programs, conservation contract, current market value buyout, debt settlement programs and homestead protection as follows:

[7 CFR 766.101(b)] (1) A borrower who is financially distressed, or current and requesting servicing will be provided FSA-2512 (Appendix A to this subpart) (appendix only in CFR)**;**

67 Providing Loan Servicing Notification Package (Continued)

A Forms for Notifying Borrowers (Continued)

Notification will be hand-delivered or sent by regular mail to borrowers who are current and requesting servicing. Notification will be sent by certified mail to borrowers requesting servicing who are delinquent, but less than 90 days past due.

[7 CFR 766.101(b)] (2) A borrower who is 90 days past due will be sent FSA-2510 (Appendix B to this subpart) (appendix only in CFR)**;**

The authorized agency official must send FSA-2510 within 15 calendar days of the determination of the default. Notification will be sent by certified mail. The account will be flagged "PLS" (Exhibit 11), according to subparagraph 67 B, until the primary loan servicing process has been completed or the account accelerated.

FSA-2001, PLSA Primary Loan Servicing Application Package, is available to download from the FFAS Employee Forms/Publications Online Website and includes the forms required to be sent with FSA-2510. The forms in this package may also be used when sending FSA-2514 for accounts that are also 90 days past due.

If non-monetary default is subsequently identified, the borrower's noncompliance must be determined and notification sent according to paragraph 65. The borrower will not be sent FSA-2514 and a new PLS packet. The non-monetary default will be addressed in the appropriate pre-acceleration notice unless it is resolved.

***--**If FSA-2510 is being sent to a primary borrower for delinquent loans that do not have a co-borrower, but a co-borrower exists for other loans not yet 90 days delinquent, the co-borrower must also be notified of potential non-monetary default using FSA-2506.

FSA-2506 sent to the co-borrower(s) should state that their operation is liable for other FSA direct loans that are currently in default, which affects the business' ability to continue operations. The potential non-monetary default process should be followed according to subparagraph 65 A until SED concurrence is received on FSA-2551. After SED concurrence is received, FSA-2514 can then be sent to the co-borrower, including the same reasoning stated on FSA-2506.**--***

[7 CFR 766.101(b)] (3) A borrower who is non-monetary or both monetary and non-monetary default will receive FSA-2514 (Appendix C to this subpart) (appendix only in CFR);

If a potential non-monetary default cannot first be resolved through the steps in subparagraph 66 A, FSA-2514 will be sent by certified mail. The account will be flagged "PLS" (Exhibit 11), according to subparagraph 67 B, until the primary loan servicing process has been completed, the default resolved, or the account accelerated.

[7 CFR 766.101(b)] (4) A borrower who has only delinquent SA will be notified of available loan servicing;

67 Providing Loan Servicing Notification Package (Continued)

A Forms for Notifying Borrowers (Continued)

The borrower will be sent FSA-2547 within 15 calendar days of the missed payment. Notification will be sent by certified mail. The borrower must submit the items specified in subparagraphs 81 C through I within 60 calendar days of the date on the notice. If a complete application has not been received within 30 calendar days FSA-2548 will be sent. Notification will be sent by certified mail.

[7 CFR 766.101(b)] (5) Notification to a borrower who files bankruptcy will be provided in accordance with subpart G (Part 11) **of this part.**

Note: Part 11 only addresses who would be sent notification. The appropriate form used for notification is established by this subparagraph based on the borrower's status as current, financially distressed, 90 calendar days past due, or non-monetary default.

B Using DLS Special Servicing and PLS Flag

The authorized agency official must track all notification and servicing activity through DLS Special Servicing and FSA-2580.

PLS flag will be placed only on accounts sent FSA-2510 or FSA-2514.

To establish the PLS account flag, a transaction will be processed in DLS through the Manage Flags function under Customer Management.

67 Providing Loan Servicing Notification Package (Continued)

C Methods of Notifying Borrowers

[7 CFR 766.101(c)] Notices to delinquent borrowers or borrowers in non-monetary default will be sent by certified mail to the last known address of the borrower. If the certified mail is not accepted, the notice will be sent immediately by first class mail to the last known address. The appropriate response time will begin 3 days following the date of the first class mailing. For all other borrowers requesting the notices, the notices will be sent by regular mail or hand delivered.

All notices to delinquent borrowers are sent by certified mail, including borrowers receiving FSA-2512 who are at least 1 day delinquent but not yet 90 days or more past due.

Certified mail return receipt service is required as an additional service when sending items by certified mail and must be purchased at the time of mailing.

If the certified mail return receipt and/or notification package is not returned within 15 days, the agency official will use USPS online tracking to determine if the borrower has received the notification package. If the online record indicates:

- that no delivery attempt was made, the borrower will be notified again using certified mail
- that the notification was delivered or accepted by the borrower, the indicated date will serve as the accepted date
- at least one delivery attempt has been made with no indication as to whether the borrower accepted mail, the notification package will be treated as not accepted and sent again by regular mail.

If the notification package is returned “address unknown”, the authorized agency official will verify the borrower’s current postal address using FSA-137 according to 5-AS, paragraph 77. ***--**If FSA-137 is unsuccessful in determining the current address, see paragraph 9 for historical address LexisNexis search. If no new address can be obtained, see 1-FLP, paragraph 63.**--***

Once the address verification process is completed, the authorized agency official will:

- record the date the original package was returned and the date the contents are re-mailed on the original envelope and file the original envelope in position 4 of the case file
- resend the contents of the loan servicing notification package in a new sealed envelope.

The timeframe for a complete application will be determined according to subparagraph 83 B.

67 Providing Loan Servicing Notification Package (Continued)

D Requests for Copies of Regulations

A borrower may request copies of regulations at any time. When asked, the authorized agency official must provide a borrower 1 free copy of a regulation within 10 workdays of the request. See 2-INFO for further guidance.

68 Other Loan Servicing Notification Requirements

A Notifying All Parties on a Note of Loan Servicing

For PLS purposes, all parties who signed the promissory note, including cosigners, are considered borrowers and are liable for all the debt.

When a borrower subject to loan servicing notification is:

- an entity comprised of 2 or more individuals, the authorized agency official will provide a loan servicing notification package to the entity and each party who signed the promissory note or pledged security for the loan
- a married couple at the same address, the authorized agency official will provide them 1 loan servicing notification package that is addressed to both parties
- a married or divorced couple at different addresses, the authorized agency official will provide a loan servicing notification package to each person at their own address.

  Note: A divorced spouse who has left an operation may seek a release of liability. See paragraph 84 for more information on releasing divorced spouses from liability.

All required subsequent notifications are sent in the same manner.

--**Third parties who pledged property as security will be sent FSA-2508 whenever**--
FSA-2510 or FSA-2514 are sent to the borrower. A copy of the FSA-2510 or FSA-2514 sent to the primary borrower will be included and marked "Courtesy Copy".

--**Borrowers with YL's will be sent FSA-2509 whenever they are sent the FSA-2510 to**--
further explain the reason for the notification and their servicing options.

Note: The DBSA fact sheet must be included with all PLS notification packages, except YL's.

B Internal Administrative Offset Notification

The authorized agency official will send an offset notification according to 7-FLP, Part 3.

C TOP Referral

Delinquent loans will be referred to TOP according to 7-FLP, Part 4.

69-80 (Reserved)

Section 2 Completing the Loan Servicing Application

81 Required Information

A General Application Requirements and Signatures

[7 CFR 766.102(a)] Except as provided in paragraph (e) (subparagraph 83 A) **of this section, an application for primary loan servicing, conservation contract, current market value buyout, homestead protection, or some combination of these options, must include the following to be considered complete:**

FSA will consider an application complete when the borrower has completed, signed, dated, and submitted to the servicing office, the forms and reports listed in subparagraphs B through I to the extent that the borrower is responsible.

The authorized agency official will date stamp, on the date received, all material received from the borrower. Date of complete application is entered on FSA-2001.

*** * ***

B Application Form

[7 CFR 766.102(a)(1)] Completed Agency application form;

The borrower and, in the case of an entity, all entity members must complete FSA-2001. The authorized agency official will order personal and/or commercial credit reports immediately upon receipt of the signed FSA-2001. No credit report fee is collected for applications for servicing only.

Note: For FSA-2001 submitted without all required initials, the authorized agency official will obtain initials before closing the servicing action requested.

81 Required Information (Continued)

C Financial Records

[7 CFR 766.102(a)(2)] Financial records for the three most recent years, including income tax returns;

The borrower must provide all farm and nonfarm income and expense records, including family living expenses. Financial records will be submitted through * * * FSA-2002 or other similar format. FSA does not release a borrower's income tax records without OGC's consent. Failure to provide income tax records is considered an incomplete application. Follow subparagraph 83 C for notification requirements. However, there are circumstances when an individual may not be required to submit income tax returns, such as certain tribal members or operations that do not meet minimum income thresholds.

D Production Records

[7 CFR 766.102(a)(3)] The farming operation's production records for the 3 most recent years or the years the borrower has been farming, whichever is less;

Farm production records will be submitted using FSA-2003 or similar format.

E Compliance With Environmental Requirements

[7 CFR 766.102(a)(4)] Documentation of compliance with the Agency's environmental regulations contained in part 799 of this chapter (1-EQ);

AD-1026 and NRCS-CPA-026e, which accurately reflect the current farm operation, must be used. FSA will not require new forms unless the existing forms no longer reflect the current operation.

F Verification of Non-Farm Income

[7 CFR 766.102(a)(5)] Verification of all non-farm income;

Non-farm income will be verified and documentation included in the case file according to 3-FLP, subparagraph 42 A.

G Farm Operating Plan

[7 CFR 766.102(a)(6)] A current financial statement and the operation's farm operating plan, including the projected cash flow budget reflecting production, income, expenses, and debt repayment plan. In the case of an entity, the entity and all entity members must provide current financial statements;

FBP will be prepared from FSA-2001 using the borrower's historical data.

81 Required Information (Continued)

H Verification of Debt and Collateral

[7 CFR 766.102(a)(7)] Verification of all debts and collateral; and

Debts will be verified and documentation included in the case file according to 3-FLP, subparagraph 42 A.

--**A credit report is required unless current information is already contained in the borrower's case file or is otherwise available. The credit report fee will be paid by FSA unless the borrower has concurrently applied for an FLP Direct loan.**--

I Other Application Requirements

[7 CFR 766.102(a)(8)] Upon Agency request, any leases, contracts, options and other agreements related to the operation.

82 Additional Information Required if Applying for Other Loan Servicing Programs

A Debt Settlement

[7 CFR 766.102©] To be considered for debt settlement, the borrower must provide the appropriate Agency form, and any additional information required under part 761 subpart F of this chapter. (7-FLP, Part 12)

To apply for debt settlement, a borrower must complete and submit FSA-2732 and may do so at any time. The loan account does not need to be delinquent and the borrower does not need to apply for primary loan serving before applying for debt settlement. See 7-FLP, Parts 8 and 12.

B Conservation Contract

[7 CFR 766.102(b)] In addition to the requirements contained in paragraph (a) (paragraph 81) **of this section, the borrower must submit an aerial photo delineating any land to be considered for a conservation contract.**

To apply for a conservation contract, a borrower must submit to the County Office:

- a complete application as described in paragraph 81

- an aerial photo or map of the tract and approximate legal description, outlining the proposed boundaries of the conservation area.

See Part 5 for more information on conservation contracts.

83 Borrower Response Timeframes

A Borrower Response Timeframes

[7 CFR 766.101(d)] To be considered for loan servicing, a borrower who is:

(1) Current or financially distressed may submit a complete application any time prior to becoming 90 days past due;

If a distressed borrower becomes 90 calendar days past due before closing a loan restructure, processing will stop and the authorized agency official will send the 90-calendar-day past due notification.

[7 CFR 766.102(d)] If a borrower who submitted a complete application while current or financially distressed is renotified as a result of becoming 90 days past due, the borrower must only submit a request for servicing in accordance with paragraph (a)(1) (subparagraph 81 B) **of this section, provided all other information is less than 90 days old and is based on the current production cycle. Any information 90 or more days old or not based on the current production cycle must be updated.**

--**A borrower must submit a new, signed FSA-2001 to request servicing as a 90 day or more past due borrower. Any information from the original current or financially distressed FSA-2001 application form that is still considered current or is unchanged does not need to be duplicated on the new FSA-2001. All pages, including blank pages, must be initialed by the applicant on the new FSA-2001.**--

[7 CFR 766.102(e)] The borrower need not submit any information under this section that already exists in the Agency's file and is still current as determined by the Agency.

[7 CFR 766.101(d)(2)] Ninety (90) days past due must submit a complete application within 60 days from receipt of FSA-2510;

[7 CFR 766.101(d)(3)] In non-monetary default with or without monetary default must submit a complete application within 60 days from receipt of FSA-2514.

For borrowers who are 90 calendar days past due or in non-monetary default, all items required from the borrower according to paragraph 81 must be received in the office by close of business on the last day. If the 60th calendar day is a Saturday, Sunday, or Federal holiday, FSA will accept the borrowers completed application the next workday.

102 Eligibility (Continued)

E NRV of Nonessential Assets

[7 CFR 766.104(a)(2)] The borrower does not have non-essential assets for which the net recovery value is sufficient to resolve the financial distress or pay the delinquent portion of the loan.

--**See paragraph 9 for available LexisNexis assistance in identifying non-essential assets.**--
eDALR$ calculates NRV of a borrower's nonessential assets.

F Borrower in Non-Monetary Default

[7 CFR 766.104(a)(3)] If the borrower is in non-monetary default, the borrower will resolve the non-monetary default prior to closing the servicing action.

G Financially Distressed Borrower

[7 CFR 766.104(a)(5)] Financially distressed or current borrowers requesting servicing must pay a portion of the interest due on the loans.

A borrower who received FSA-2512 and is not delinquent must pay as much interest as feasible.

H Federal Crop Insurance Violation

[7 CFR 766.104(a)(6)] The borrower must not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718 (1-CM)**.**

I Debtors With SA Only

[7 CFR 766.104(b)] Debtors with SA only must:

(1) Be delinquent due to circumstances beyond their control;

(2) Have acted in good faith.

103 Consideration of Servicing

A General Policy

The authorized agency official uses eDALR$ to determine which loan servicing authority or combination of authorities may be available to the borrower. For additional information on eDALR$ functions, see Exhibit 17.

B Order in Which FSA Considers Servicing Options

[7 CFR 766.105(a)] The Agency will consider loan servicing options and combinations of options to maximize loan repayment and minimize losses to the Agency. The Agency will consider loan servicing options in the following order for each eligible borrower who requests servicing:

(1) Conservation Contract, if requested;

(2) Consolidation and rescheduling or reamortization;

(3) Deferral;

--(4) Write-down; and--

(5) Current market value buyout.

C Debt Service Margin

[7 CFR 766.105(b)] (1) The Agency will attempt to achieve a 110 percent debt service margin for the servicing options listed in paragraphs (a)(2) through (4) (subparagraph B) **of this section.**

(2) If the borrower cannot develop a feasible plan with the 110 percent debt service margin, the Agency will reduce the debt service margin by one percent and reconsider all available servicing authorities. This process will be repeated until a feasible plan has been developed or it has been determined that a feasible plan is not possible with a 100 percent margin.

(3) The borrower must be able to develop a feasible plan with at least a 100 percent debt service margin to be considered for the servicing options listed in paragraphs (a)(1) through (4) (subparagraph B) **of this section.**

Part 4 Primary Loan Servicing Programs

Section 1 Consolidation and Rescheduling

131 Co-signers

When a co-signer's non-farm income is required to obtain a feasible cash flow plan, the co-signer will sign the restructured FSA-2026.

132 Eligibility and Loan Terms

A Loans Eligible for Consolidation

[7 CFR 766.107(a)] The Agency may consolidate OL loans if:

(1) The borrower meets loan servicing eligibility requirements in § 766.104 (paragraph 102)**;**

(2) The Agency determines that consolidation will assist the borrower to repay the loans;

(3) Consolidating the loans will bring the borrower's account current or prevent the borrower from becoming delinquent;

(4) The Agency has not referred the borrower's account to OGC or the U.S. Attorney, and the Agency does not plan to refer the account to either of these two offices in the near future;

(5) The borrower is in compliance with the Highly Erodible Land and Wetland Conservation requirements of 7 CFR Part 12, if applicable (see 6-CP);

(6) The loans are not secured by real estate;

(7) The Agency holds the same lien position on each loan;

(8) The Agency has not serviced the loans for unauthorized assistance under subpart F (Part 10) **of this part; and**

(9) The loan is not currently deferred, as described in § 766.109 (Section 3)**, or set-aside, as described in subpart B or J** (Part 2) **of this part. The Agency may consolidate loans upon cancellation of the deferral, DBSA, or DSA** (Part 2)**.**

Notes: Consolidating loans eligible for DBSA with loans not eligible for DBSA will cause the loss of eligibility for a future DBSA for loans that are consolidated.

Stimulus bill loans will **not** be consolidated. Loans obligated with stimulus funds must retain their stimulus loan identifier. Stimulus loans are identified by TOA Codes 564 through 583. See DLS Customer Loan Information Section for TOA codes.

--**Consolidation should be used whenever possible to preserve loan numbers.**--

132 Eligibility and Loan Terms (Continued)

A Loans Eligible for Consolidation (Continued)

***--**Consolidation can have significant advantages for a borrower and should be appropriately considered for all eligible loans. The user must appropriately select "Yes" in the "consolidation indicator" field in eDALR$ for all loans eligible for consolidation. eDALR$ will make the final determination whether consolidation will be used in developing a feasible repayment plan.

System limitations allow no more than 6 loans to be selected for consolidation in eDALR$. If more than 6 loans need to be consolidated for one borrower, please contact LSPMD for assistance.**--***

When a restructure is processed, DLS transaction codes 5T – Cancel Disaster Set-Aside and 5Y – Cancel Loan Deferral will be sequenced to process before the 1M – Loan Consolidation/Reschedule transaction in DLS Special Servicing.

PLS transactions processed within the DLS Special Servicing system will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

B Loans Eligible for Rescheduling

[7 CFR 766.107(b)] The Agency may reschedule loans made for chattel purposes, including OL, CL, SW, RL, EE, or EM if:

(1) The borrower meets loan servicing eligibility requirements in §766.104 (paragraph 102)**;**

(2) Rescheduling the loans will bring the borrower's account current or prevent the borrower from becoming delinquent;

(3) The Agency determines that rescheduling will assist the borrower to repay the loans;

(4) The Agency has not referred the borrower's account to OGC or the U.S. Attorney, and the Agency does not plan to refer the account to either of these two offices in the near future;

(5) The borrower is in compliance with the Highly Erodible Land and Wetland Conservation requirements of 7 CFR part 12, if applicable; and

(6) The loan is not currently deferred, as described in § 766.109 (Section 3)**, or set-aside, as described in subpart B or J** (Part 2) **of this part. The Agency may reschedule loans upon cancellation of the deferral, DBSA, or DSA** (Part 2)**.**

eDALR$ will be used to determine whether a repayment plan can be developed.

132 Eligibility and Loan Terms (Continued)

B Loans Eligible for Rescheduling (Continued)

When a restructure is processed, DLS transaction codes 5T – Cancel Disaster Set-Aside and 5Y – Cancel Loan Deferral will be sequenced to process before the 1M – Loan Consolidation/Reschedule transaction in DLS Special Servicing.

PLS transactions processed within the DLS Special Servicing system will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

C Loan Terms

[7 CFR 766.107(c)] (1) The Agency determines the repayment schedule for consolidated and rescheduled loans according to the borrower's repayment ability.

(2) Except for CL and RL loans, the repayment period cannot exceed 15 years from the date of the consolidation and rescheduling.

(3) The repayment schedule for RL loans may not exceed 7 years from the date of rescheduling.

(4) The repayment schedule for CL loans may not exceed 20 years from the date of the original note or assumption agreement.

193 Amount of Debt Canceled by Conservation Contract (Continued)

C Debt Forgiveness

The debt reduced through FSA-2535 is not considered debt forgiveness under CONACT.

194 Processing Conservation Contract Request

A Applying for Conservation Contract

All requests for conservation contracts must be tracked using DLS Special Servicing.

A borrower who is delinquent, financially distressed, or in non-monetary default and is interested in receiving loan servicing, including a conservation contract, must submit:

- a loan servicing application package according to paragraphs 81 and 82
- an aerial photo or map of the borrower's land that delineates the proposed conservation area according to subparagraph 82 B.

A current borrower who is not financially distressed may request a conservation contract by submitting:

- FSA-2061

--Note:** See 4-FLP, Exhibit 25.6 for examples of how to complete FSA-2061.**--

- actual financial performance for the past year (last year's tax return or last year's income and expense records are acceptable).
- current balance sheet (or FSA-2037)
- projected income/expense for planning year (or FSA-2038)
- annual crop and livestock production yields
- an aerial photo or map that delineates the proposed conservation area according to subparagraph 82 B.

Process incomplete applications for current borrowers according to paragraph 10.

194 Processing Conservation Contract Request (Continued)

B Processing a Delinquent or Financially Distressed Borrower's Request

If the borrower is eligible for loan servicing, the authorized agency official uses eDALR$ to determine which loan servicing program or combination of programs may enable the borrower to develop a feasible plan.

When using eDALR$ to process a loan servicing application that includes a request for a conservation contract, the authorized agency official shall input into eDALR$ the contract term and conservation acreage.

- The authorized agency official should determine the financial effect of the different *--contract lengths by running the 3 contract term scenarios on eDALR$ or the Conservation Contract Estimator Tool, such as 10-, 30-, and 50-year contract terms. By varying the contract term and holding all other input parameters constant, the--* authorized agency official and borrower may compare--* the magnitude of debt cancellation across contract terms.

- The authorized agency official also should vary the conservation acreage to determine the effect of changing the size of the proposed conservation contract area. The authorized agency official extrapolates the size of the proposed conservation area from the area marked on the borrower's aerial photo or map. For each contract term that enables a borrower to develop a feasible plan, the authorized agency official should record the minimum conservation acreage that is needed to create a feasible plan.

Example: A delinquent borrower applies for loan servicing and indicates an interest in FSA-2535. The aerial photo the borrower submits indicates the proposed *--conservation area is 1,000 acres. Using eDALR$ or the Conservation Contract Estimator Tool, the authorized agency official determines that the borrower--* can develop a feasible plan if the borrower accepts FSA-2535 for 30 or 50 years. eDALR$ indicates that a 50-year contract reduces the borrower's debt by $20,000, while a 30-year contract reduces the borrower's debt by $12,000. By adjusting the number of acres inputted into eDALR$, the authorized agency official determines that at a minimum, the borrower has to place 700 acres of land into a conservation easement under a 30-year contract or 500 acres of land into a conservation easement under a 50-year contract to develop a feasible plan.

248 Closing Deferred Loans

A Introduction to Deferrals

FSA will also reschedule or reamortize, as applicable, all loans deferred through primary loan servicing.

FSA may defer all or part of a loan according to eDALR$.

B Closing Deferrals

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR$ report
- ensure that all liable parties have correctly executed FSA-2026
- complete the addendum to FSA-2026 addressing repayment of deferred interest according to FSA-2026 instructions
- complete box 9 of FSA-2026 to address all actions requiring the promissory note, including "deferral", according to FSA-2026 instructions
- mark the existing promissory note or assumption agreement "rescheduled/reamortized with full/partial deferral," as appropriate, and attach it to the new FSA-2026
- file the new deferred FSA-2026 according to 32-AS
- file a copy of the new note with the copy of the existing promissory note or assumption agreement in position 2 of the borrower's case file
- provide a copy of the new deferred FSA-2026 to the borrower at closing
- ***--**the original eDALR$ report used for approval and any reports for post-approval must be filed in position 3.**--***

1M and 5W – Record Loan Deferral transactions will be processed by the servicing office in DLS Special Servicing to record the deferred loans as well as record the "DEF" flag on the account. These transactions will be created and processed in the correct sequence by DLS Special Servicing.

248 Closing Deferred Loans (Continued)

C Ongoing Servicing of Deferrals

County Offices shall service deferred accounts by:

- *--reviewing the RD Business Center quarterly status report to determine borrowers who--* have deferrals expiring
- reviewing the borrower's financial progress during the annual analysis according to paragraph 161
- sending the borrower a letter 6 months before the expiration of the deferral stating the amount and due date of the first payment.

After all deferrals on a borrower's account have expired, the "DEF" flag (Exhibit 11) will be *--converted to a "DEF3" flag by RD Business Center, FLB. This flag is not required to be--* removed and is used to indicate which accounts have previously been serviced with deferral servicing actions.

If all deferrals on an account must be canceled before their expiration, the "DEF" flag must be removed from the account by processing a 5H transaction in DLS. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS.

Deferral flags cancelled as part of PLS transactions will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

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.

249 Closing Write-Downs

B Closing Write-Down

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR$ report
- ensure that all liable parties have correctly executed FSA-2026
- mark the existing promissory note or assumption agreement "Satisfied by Approved Debt Write-down" if the loan is completely written down or "Restructured with Partial Debt Write-down" 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 32-AS
- provide a copy of the new FSA-2026 to the borrower at closing
- *--the original eDALR$ report used for approval and any reports used for post-approval changes or closing date updates must be filed in position 3--*
-
- SED must approve all write-downs.

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 write-down 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.

249 Closing Write-Downs (Continued)

D Processing Write-Down

The authorized agency official will process a 3R – Shared Appreciation Write-down 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.

PLS transactions processed within the DLS Special Servicing system will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

E Additional Security Required

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

As noted in subparagraph 211 A, if additional real estate security is pledged, the filing ***--**information and appraised market value for the additional security will be included when completing FSA-2543. The additional real estate security will be subject to recapture according to paragraph 342, which includes sales, conveyances, or maturity of the SAA.**--***

Example A: A borrower receives a write-down on a loan that is secured by real estate with an appraised value of $65,000. As part of the servicing, the borrower will also be providing the agency with a lien of previously unencumbered security. This additional security is appraised and valued at $45,000. When completing FSA-2543, the market value of all real property securing FSA notes will be $110,000 and filing information for both properties will be included on the *--form. Both properties are subject to recapture.**--***

299 Defaults and Ramifications of Lease Defaults

A Terminating Homestead Protection Leases

[7 CFR 766.154(d)] The Agency may terminate the lease if the lessee does not cure any lease defaults within 30 days of Agency notification.

Examples of lease defaults may include nonpayment of monthly lease payments or failure to maintain the property.

If the former borrower is in default on the terms of the lease, the authorized agency official must notify the former borrower in writing. If the former borrower does not cure a lease default within 30 calendar days of the date of the default notice from FSA, the authorized agency official notifies the former borrower in writing that FSA is terminating the lease and purchase option. This notification must include appeal rights.

300 Exercising Option to Purchase Homestead Protection Property

A Timeframe for Exercising Option

[7 CFR 766.154(c)] (1) The lessee may exercise in writing the purchase option and complete the homestead protection purchase at any time prior to the expiration of the lease provided all lease payments are current.

(2) If the lessee is a member of a socially disadvantaged group, the lessee may designate a member of the lessee's immediate family (that is, parent, sibling, or child) (designee) as having the right to exercise the option to purchase. See Exhibit 2 for the definition of socially disadvantaged group.

Note: The former owner must be eligible for Homestead Protection and successfully lease the property (be the lessee) under Homestead Protection before they can choose an immediate family member to purchase the property.

The lessee or designee may exercise the purchase option by completing the repurchase of the homestead protection property within the term of the lease. The lessee or designee must initiate the purchase option by submitting a signed statement to FSA. The option is not exercised until FSA receives the purchase money. If closing extends beyond the term of the lease, the lessee will continue to make lease payments to FSA until the purchase is closed.

Failure to exercise the purchase option within the lease period terminates the lessee's rights under the option.

B Determining Sale Price of Homestead Protection Tract

[7 CFR 766.154(c)(3)] The purchase price is the market value of the property when the option is exercised as determined by a current appraisal obtained by the Agency.

FSA determines the current market value of the property through an appraisal that is less than ***--**18 months old. If the appraisal is older than 18 months, the authorized agency official**--*** requests a new appraisal according to subparagraph 284 E.

Part 8 Current Market Value Buyout

321 Buyout at Current Market Value

A Introduction

If a feasible plan cannot be developed through primary loan servicing, FSA will offer the borrower current market value buyout if they are determined eligible according to subparagraph B.

Current market value buyout allows the borrower to pay FSA the current market value of the security less any prior liens. Buyout for $0.00 may be a possible outcome. FSA will release all of the borrower's debt and security instruments (if any remain) when current market value is paid in full within the required timeframes. If the total FLP debt is less than current market value, FSA will accept payment in full at any time.

B Borrower Eligibility

[7 CFR 766.113 (a)] A delinquent borrower may buy out the borrower's Agency loans at the current market value of the loan security, including security not in the borrower's possession, and all non-essential assets if:

(1) The borrower has not previously received debt forgiveness on any other FLP direct loan;

(2) The borrower has acted in good faith;

(3) The borrower does not have non-essential assets for which the net recovery value is sufficient to pay the account current;

(4) The borrower is unable to develop a feasible plan through primary loan servicing programs or a Conservation Contract, if requested;

(5) The present value of the restructured loans is less than the net recovery value of Agency security;

(6) The borrower pays the amount required in a lump sum without guaranteed or direct credit from the Agency; and

(7) The amount of debt forgiveness does not exceed $300,000.

* * *

321 Buyout at Current Market Value (Continued)

B Borrower Eligibility (Continued)

Debt reduction from FSA-2535's is not included in the $300,000 limit described in this subparagraph.

If eDALR$ shows that FSA would write off more than $300,000 of the borrower's debt in restructuring the debt or accepting the current market value, the borrower is not eligible for primary loan servicing or current market value buyout. The borrower may be considered for debt settlement according to 7-FLP, Part 12.

C Approval of Buyout

***--**SED must approve all current market value buyouts, which will result in a loss to the government.

If the account will be paid in full, SED signature is not required.**--***

Part 9 Servicing Shared Appreciation Agreements

341 Monitoring Shared Appreciation Agreements

*--A RD Business Center Reports

RD Business Center sends a monthly report to the County Office listing:--*

- shared appreciation agreements that will soon be maturing
- past due amounts owed by borrowers on shared appreciation agreements that have been triggered or have matured.

B Borrower Reminder of Shared Appreciation Agreement

--The authorized agency official will send FSA-2546 to all borrowers who executed a-- shared appreciation agreement as a reminder of shared appreciation agreement requirements. This letter will be sent in the fourth quarter of every FY during the term of the shared appreciation agreement, starting 1 year after the shared appreciation agreement is signed.

C Consideration of Shared Appreciation Amounts

FSA considers the amount of shared appreciation as a contingent liability of the borrower until it is determined whether there is any shared appreciation due and payable according to paragraph 342.

FSA includes shared appreciation amounts that are due and payable or amortized as part of the borrower's total FSA debt.

342 Triggering Shared Appreciation Agreements

A When Shared Appreciation Agreement Is Due

[7 CFR 766.201(b)] The borrower must repay the calculated amount of shared *--appreciation after a term of 5 years from the date of the write-down, or earlier if:--*

*** * ***

[7 CFR 766.201(b)] (1) The borrower sells or conveys all or a portion of the Agency's real estate security, unless real estate is conveyed upon the death of a borrower to a spouse who will continue farming;

[7 CFR 766.201(b)] (2) The borrower repays or satisfies all FLP loans;

[7 CFR 766.201(b)] (3) The borrower ceases farming; or

[7 CFR 766.201(b)] (4) The Agency accelerates the borrower's loans.

344 Notifying Borrower That Shared Appreciation Is Due

A FSA Review of Maturing SAA's

To allow for appraisals and consideration of capital improvements, the authorized agency official will begin determination of the SAA recapture amount due approximately 6 months before the maturity of SAA. The authorized agency official will contact the borrower with FSA-2544 to determine whether any improvements have been made that meet the required criteria. If there is any shared appreciation due according to paragraph 343, the borrower will be notified according to subparagraph B. If no SAA recapture is due, FLM or SFLO will wait until SAA has matured and complete the actions in subparagraph 343 E.

Use the DLS SI Other Shared Appreciation Amortization workflow to track and monitor the SAA processing to completion.

B Borrower Notification of Shared Appreciation Due

The authorized agency official will notify the borrower of any SAA recapture due at least 60 calendar days before the maturity date of the agreement or if any of the events described in paragraph 342 occur by use of FSA-2545. This notification will include:

- the amount of the SAA recapture due
- the date the SAA recapture is due, which is the latter of the maturity of SAA or 30 calendar days from the borrower's receipt of the letter
- how FSA calculates the amount due
- the borrower's options for repaying the shared appreciation amount, including:
- FSA's offer to consider amortization of the full amount due as NP if the borrower cannot pay the entire amount due
  - a list of items required for a complete application for amortization
  - the application due date
  - borrower's appeal rights.

--Note:** FSA-2545 will be sent by certified mail with return receipt requested.**--

After all appeal rights have been concluded, FSA will process a 3V – Equity Receivable transaction in DLS to establish the recapture due.

344 Notifying Borrower That Shared Appreciation Is Due (Continued)

C Complete Application for Shared Appreciation Amortization

The borrower has 60 calendar days from the date of FSA-2545 to submit a complete application to amortize the full shared appreciation amount according to paragraph 346. If the application is submitted while the borrower is disputing the recapture amount, the final decision on the application will not be made until all dispute resolution options are concluded.

For the application for shared appreciation amortization to be complete, the borrower must submit:

- FSA-2001
- records showing the borrower's actual income, production, and expenses, including income tax returns and supporting documents for the most recent 3-year period
- verifications of debts and nonfarm income according to 3-FLP, subparagraph 42 A
- proper fee for a credit report
- any other items determined by the authorized agency official as necessary for completing FBP.

--**At 30 calendar days, the authorized agency official will use FSA-2091 to notify the borrower of the following:**--

- of all required items that the borrower has not submitted
- the final due date by which the borrower must submit all items
- that no further reminders will be sent and that the borrower will be sent FSA-2525 ***--**if the amount is not paid or a shared appreciation amortization application is not received.**--***

D Borrower Does Not Pay Shared Appreciation Due

*--The borrower will be sent FSA-2525 if the full amount is not paid or a shared appreciation amortization application is not received by the due date. Servicing will continue to liquidation if the recapture is not paid.

Note: FSA-2525 will be sent by certified mail with return receipt requested.**--***

345 Processing Shared Appreciation Agreement Recapture Payments

A Processing Shared Appreciation Agreement Recapture Payments

Payment on unamortized recapture will be processed as a miscellaneous payment and indicated as an "Equity Receivable Payment".

Note: Because of processing requirements for Shared Appreciation Recapture Agreements, partial Shared Appreciation Recapture Payments are not authorized.

B Applying Sale Proceeds of Shared Appreciation Security

Creditors will be paid in lien priority. Proceeds from a full or partial sale of shared appreciation agreement security submitted to FSA will be applied first to recapture and then to the loan.

C Satisfying Shared Appreciation With Payment in Full

If the borrower fully pays the shared appreciation amount due and the borrower's remaining FLP debt is fully paid, the authorized agency official will release the satisfied debt and lien instruments and close the equity receivable record.

If the borrower pays the shared appreciation amount in full but still has remaining FLP debt, FSA will release only those documents pertaining to loans that have been fully paid. FSA will mark the shared appreciation agreement paid in full but will not release the borrower's mortgage if it secures promissory notes that the borrower has not fully paid.

If shared appreciation is due because of a partial sale of the shared appreciation agreement security, the shared appreciation agreement is not satisfied and the lien instruments will not be released. See 4-FLP, Part 7 about partial releases of security.

SED may issue a State supplement on satisfying shared appreciation agreements if required by State law.

D Cash Sale of Shared Appreciation Security

Subject to prior lien debt, FSA collects the shared appreciation agreement recapture amount first from the sale proceeds in a cash sale of the shared appreciation security.

*--E Repayment of Amount Written Down due to previous Equity Recapture Payment

When a borrower submits a new Direct Loan request and a shared appreciation recapture payment resulted in a remaining loss to the agency, the borrower may be ineligible for assistance according to eligibility requirements for the specific loan type. The borrower may cure the debt forgiveness by repayment of the Agency's loss.**--***

345 Processing Shared Appreciation Agreement Recapture Payments (Continued)

*--E Repayment of Amount Written Down due to previous Equity Recapture Payment

When Shared Appreciation due is repaid, the repayment amount may be less than the amount written down. In these cases, there is no write-down amount to apply the borrower's payment.

When the borrower submits payment the authorized agency official will:

- obtain a copy of the check or the **pay.gov** receipt and place in the borrower's case file
- process the payment in NRRS by entering the following details:
  - Code: 21, Other
  - Free Form Special Data Field: "This payment is to pay the amount not collected from the write down to equity recapture".
- immediately send instructions to RD Business Center via fax using FSA-2046.
- update the FBP running record and borrower's case file with a detailed summary of what occurred.

Notes: If the debt forgiveness is cured by repayment of the Agency's loss, the Agency may still consider the debt forgiveness in determining the applicant's credit worthiness.

When the Agency Loss has been repaid, the payment will not appear on the borrower's online history.**--***

346 Amortizing Shared Appreciation

A Requirements for a Shared Appreciation Payment Agreement

[7 CFR 766.204(a)] The Agency will amortize the recapture into a Shared Appreciation Payment Agreement provided the borrower:

(1) Has not ceased farming and the borrower's account has not been accelerated;

(2) Provides a complete application in accordance with 764.51(b) (3-FLP, subparagraph 42 A)**, by the recapture due date or within 60 days of Agency notification of the amount of recapture due, whichever is later;**

(3) Is unable to pay the recapture and cannot obtain funds from any other source;

(4) Develops a feasible plan that includes repayment of the shared appreciation amount;

346 Amortizing Shared Appreciation (Continued)

A Requirements for a Shared Appreciation Payment Agreement (Continued)

(5) Provides liens on all assets, except those listed in 766.112(b) (subparagraph 211 C)**; and**

(6) Signs loan agreements and security instruments as required.

* * *

B Calculating the Amortized Payment

The authorized agency official will calculate the amortized payment according to FSA amortization tables and document the calculations in the borrower's FBP.

C Amortized Loan Term

[7 CFR 766.205(b)] The term of the Shared Appreciation Payment Agreement is based on the borrower's repayment ability and the useful life of the security. The term will not exceed 25 years.

D Amortized Loan Interest Rate

[7 CFR 766.205(a)] The interest rate for Shared Appreciation Payment Agreements is the Agency's SA amortization rate.

E Amortized Loan Security

The Shared Appreciation Payment Agreement must retain the same security position of the original notes identified in SAA. SED will issue a State supplement on maintaining FSA's lien position. The authorized agency official will take the best obtainable lien on assets not to exceed 125 percent security margin according to subparagraph 211 A. The Shared Appreciation Payment Agreement does not have to be fully secured if the borrower meets all requirements in subparagraph A and the borrower provides the best lien obtainable on all assets.

The authorized agency official will close the Shared Appreciation Payment Agreement only after the equity recapture amount has been established by the processing of a 3 V - Equity Receivable transaction in DLS. The interest rate to be used for the amortization must be the SA rate in effect at the time of approval. The amortization will be closed according to the requirements listed in subparagraphs F through I and 3-FLP, Part 16. The amortization approval date shall not be before the date shared appreciation is due as described in subparagraph 342 A.

346 Amortizing Shared Appreciation (Continued)

F Amortized Loan Processing

The authorized agency official will mark SAA "Amortized," attach it to the new FSA-2026, and file the original promissory note and its copies according to 32-AS. The copies of the new FSA-2026 and SAA will be filed in position 2 of the borrower case file.

If a Shared Appreciation Payment Agreement becomes due because of a partial sale of security and SAA has not yet matured, the authorized agency official will attach a copy of SAA to the new FSA-2026.

The authorized agency official will process a 3O – Equity Receivable Amortization transaction in the DLS SI Other Shared Appreciation Amortization workflow to record the Shared Appreciation Payment Agreement.

G Amortized Loan Approval

The authorized agency official will use FSA-2025 to notify the borrower of approval of shared appreciation agreement amortization. FSA-2026, with all covenants relating to graduation, credit elsewhere, restrictions on leasing, and FLP operating requirements removed, will be used as the loan agreement.

H Amortized Loan Application Denied

If amortization cannot be approved, the authorized agency official will deny the application ***--**to amortize the shared appreciation amount and the borrower will be sent FSA-2514 to determine if primary loan servicing can assist with a feasible plan for shared appreciation amortization.**--***

346 Amortizing Shared Appreciation (Continued)

I Servicing SA

[7 CFR 766.204(b)] If the borrower later becomes delinquent or financially distressed, reamortization of the Shared Appreciation Payment Agreement can be considered under subpart C (Part 3) **of this part.**

If the borrower has other program loans, the Shared Appreciation Payment Agreement will be considered as a part of the overall restructure process, but can only be reamortized.

Borrowers who do not have any program loans will be notified according to subparagraph 67 A.

Shared Appreciation Payment Agreements cannot be consolidated, deferred, or written down.

The DLS SI "Other Shared Appreciation (SA)" workflow shall be completed upon satisfaction of the SA amortization loan.

347 (Reserved)

386 Notifying Borrower of Unauthorized Assistance

A General Policy

When FSA has fully documented a borrower's receipt of unauthorized assistance, the borrower will be notified.

B Notifying Borrowers Who Received Unauthorized Assistance Because of Inaccurate Information or FSA Error

The authorized agency official will notify the borrower of the initial unauthorized assistance determination with Exhibit 30. The letter will address the type of unauthorized assistance, and the amount calculated according to paragraph 385 that could be paid to correct the unauthorized assistance. FSA will consider the borrower notified of unauthorized assistance 3 calendar days after the letter is sent.

If the unauthorized assistance meeting cannot be held or corrective action taken within 30 calendar days, the account will be in non-monetary default and the borrower will be ***--**notified according to Part 3 with concurrence of SED according to subparagraph 65 B.**--***

C Notifying Borrowers Who Received Unauthorized Assistance Identified by an OIG Audit

If the unauthorized assistance is identified by an OIG audit, the authorized agency official will notify the borrower according to 9-AO.

D Notifying Borrowers Who Received Unauthorized Assistance Because of False Information

If the unauthorized assistance is because of false information, the authorized agency official will notify the borrower according to OIG or SED instructions.

387 Recovering Unauthorized Assistance

A Meeting With the Borrower

At the meeting, the reason for the assistance being unauthorized will be explained to the borrower and options for correcting the unauthorized assistance will be discussed.

The borrower has 15 calendar days to provide evidence that refutes FSA's determination.

B Final Notification

Once all meetings are concluded, the proposed corrective action will be sent to the approval official designated in paragraph 381 for consideration. The approval official will make any changes necessary to the plan and return it to the authorized agency official. The borrower *--will be informed of the final outcome with FSA-2549. FSA will consider the borrower--* notified of unauthorized assistance 3 calendar days after the letter is sent.

The borrower must respond within 30 calendar days of the date of receipt of the letter and be prepared to complete the corrective action within 90 calendar days from the date of receipt. If the unauthorized assistance corrective action is not completed, the account will be in non-monetary default and the borrower will be notified according to Part 3 with concurrence of SED according to subparagraph 65 B.

C Unauthorized Assistance Remittance in a Lump Sum

[7 CFR 766.253(a)(1)] The borrower may repay the amount of the unauthorized assistance in a lump sum within 90 days of Agency notice.

The authorized agency official must make every reasonable attempt to collect the amount of the unauthorized assistance calculated in paragraph 385 from the borrower in a lump sum. If the borrower agrees to remit the unauthorized assistance in a lump sum, the borrower must *--remit the unauthorized assistance within 90 calendar days of receipt of FSA-2549.--*

FSA can make the borrower a new loan or a subordination to refinance the unauthorized loan as long as the new action meets all requirements for the type of new loan or subordination.

387 Recovering Unauthorized Assistance (Continued)

D Other Unauthorized Assistance Remittance Options

[7 CFR 766.253(a)] (2) If the borrower is unable to repay the entire amount in a lump sum, the Agency will accept partial repayment of the unauthorized assistance within 90 days of Agency notice to the extent of the borrower's ability to repay.

(3) If the borrower is unable to repay all or part of the unauthorized amount, the loan will be converted to a Non-program loan under the following conditions:

If the borrower is unable to repay the entire unauthorized amount, the remaining unauthorized portion of the loan will be converted to a NP loan under the following conditions. A clarification to CFR is forthcoming.

(i) The borrower did not provide false information;

(ii) It is in the interest of the Agency;

(iii) The debt will be subject to the interest rate for Non-program loans;

The borrower must develop a feasible plan which includes the unauthorized assistance amount at NP rates and terms.

(iv) The debt will be serviced as a Non-program loan;

(v) The term of the Non-program loan will be as short as feasible, but in no case will exceed:

(A) The remaining term of the FLP loan;

(B) Twenty-five (25) years for real estate loans; or

(C) The life of the security for chattel loans.

--A new FSA-2026 will not be taken. Instead RD Business Center, FLB will be informed-- of the change by memorandum identifying the loan to be affected, noting the new rates and terms, and referring to the authority in the regulation in this subparagraph. Copies of the memorandum will be attached to FSA-2026 of affected loan and all copies.

387 Recovering Unauthorized Assistance (Continued)

E Borrower Refusal to Pay

[7 CFR 766.254(b)] If the borrower is able to pay the unauthorized assistance amount but refuses to do so, the Agency will notify the borrower of the availability of loan servicing in accordance with subpart C (Part 3) **of this part.**

Borrowers who can pay but refuse are in non-monetary default.

F When FSA Pursues Legal Action to Collect Unauthorized Assistance

The authorized agency official will move toward liquidation by notification of the borrower according to Part 3 if:

- the borrower fails to attend the scheduled meeting
- the borrower fails to respond to FSA within 30 calendar days of the date of receipt of ***--**FSA-2549
- the borrower has not completed the corrective action within 90 calendar days of the date of receipt of FSA-2549.**--***

If OIG determines that unauthorized assistance was caused by incomplete or false information, the authorized agency official services the borrower's account and recovers unauthorized assistance according to OIG instructions.

G Processing Any Account Adjustments

The authorized agency official will process any payment made to resolve the unauthorized assistance case as an extra payment according to 4-FLP, subparagraph 63 A.

401 FSA Actions When Borrower Files for Bankruptcy (Continued)

C Flagging the Account

--Upon notification that the borrower has filed bankruptcy, the account is flagged "BAP" using FSA-2562 by the State Office by processing the Manage Flags function in DLS Customer-- Management. The "BAP" flag will remain on the account until 1 of the following occurs:

- bankruptcy is dismissed
- there is a confirmed plan and the case is closed

*--**Note:** When a bankruptcy is administratively closed after a plan has been confirmed but before a discharge is granted, the "BAP" flag will remain on the account unless OGC confirms the flag can be removed.--*

- the account is settled.

*--**Notes:** The "PLS" flag must be removed by processing the Manage Flags function in DLS Customer Management before a "BAP" flag can be established (Exhibit 11).--*

An account cannot be flagged "BAP" and "FAP" at the same time. If foreclosure action is taken against an account in bankruptcy, the "BAP" flag should be removed and the "FAP" flag added until after the foreclosure action has been completed. During the time that the account is not flagged "BAP", the authorized agency official will monitor the TOP screens to ensure that all discharged loans are removed from TOP consideration according to 7-FLP, Part 4.

D Removal From Offset

Upon notification that the borrower has filed a bankruptcy petition, the authorized agency *--official must remove the borrower from both the TOP screens and internal administrative offset. The authorized agency official will contact OGC if there are any pending or potential farm program payments. Farm Programs should be instructed to freeze the payment until guidance is received from OGC in determining whether FSA can seek relief from the automatic stay to conduct an administrative offset or release the payment to the borrower.—*

If other obligated individuals/entities have not filed for bankruptcy, the authorized agency official will review 7-FLP, Parts 3 and 4 and will consult with OGC to determine whether co-borrowers remain eligible for offset.

Note: Authorized agency official must ensure that ineligible co-borrower(s) are unlinked as outlined in the DLS User Guide which is available at

***--https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/applicationbased.aspx**.--*

401 FSA Actions When Borrower Files for Bankruptcy (Continued)

E Notifying the Borrower's Attorney of Loan Servicing Options if Borrower Was Not Previously Notified

[7 CFR 766.301] If a borrower files for bankruptcy, the Agency will provide written notification to the borrower's attorney with a copy to the borrower as follows:

(a) The Agency will provide notice of all loan servicing options available under Subpart C (Part 3) **of this part, if the borrower has not been previously notified of these options.**

--**Unless otherwise advised by OGC, the authorized agency official will send FSA-2573**-- with the appropriate PLS notice according to paragraph 67 to the borrower's attorney (if the borrower has an attorney) via certified mail with copies to all borrowers within 15 calendar days of receiving notice of the bankruptcy filing. If the borrower does not have an attorney, the notices should be sent directly to the borrower via certified mail.

The authorized agency official must track all notification and servicing activity through DLS Special Servicing through utilization of the Bankruptcy category. All Bankruptcy tracking in DLS will be done using the primary debtor's account. If there are related entities that file bankruptcy independently from the primary debtors account, refer to the DLS User's Guide for specific information on how to track these related entities filing bankruptcy independent of a primary debtor.

F Notifying the Borrower's Attorney of Servicing Options if the Borrower Was Previously Notified

[7 CFR 766.301(b)] If the borrower received notice of all loan servicing options available under Subpart C (Part 3) **of this part prior to the time of bankruptcy filing but all loan servicing was not completed, the Agency will provide notice of any remaining loan servicing options available.**

If FSA notified the borrower of primary loan servicing before the borrower filed for bankruptcy and some servicing options are still available, the authorized agency official will *--send FSA-2573 and the appropriate servicing forms along with any required application**--*** forms to the borrower's attorney (if the borrower has an attorney) with copies to all borrowers explaining what options remain. Servicing and servicing timeframes are suspended on the date the borrower files for bankruptcy and resume on the date the ***--**borrower's attorney receives FSA-2573 by certified mail.

Note: If no servicing options remain, do not include FSA-2510 with FSA-2573.**--***

If the borrower or borrower's attorney does not request any remaining servicing options, or no servicing options remain, the authorized agency official will not take any further action to liquidate the account until the stay is lifted and they are notified by the State Office.

402 Borrowers' Rights and Responsibilities About Loan Servicing (Continued)

E When a Bankruptcy Plan Is Confirmed Before Servicing or Appeals Are Completed

[7 CFR 766.303(b)] If a plan is confirmed before servicing and any appeal is completed under 7 CFR part 11, the Agency will complete the servicing or appeals process and may consent to a post-confirmation modification of the plan if it is consistent with the Bankruptcy Code and subpart C (Part 3) **of this part, as appropriate.**

Before completing the servicing or appeals process post-confirmation, the authorized agency official will confirm with the borrower's attorney (if the borrower has an attorney) or the borrower if not represented, that they still desire to proceed with the servicing or appeals process.

F Chapter 7 Servicing Requirements

[7 CFR 766.303(c)] A borrower filing for bankruptcy under Chapter 7 of the Bankruptcy Code may not receive primary loan servicing unless the borrower reaffirms the entire Agency debt. A borrower who filed chapter 7 does not have to reaffirm the debt in order to be considered for homestead protection.

To be effective, a reaffirmation agreement must be "made" prior to entry of discharge. Therefore, a reaffirmation agreement that was signed post-discharge does not restore the borrower's personal liability for FSA's debt.

If the borrower asks FSA for a copy of a reaffirmation agreement, the authorized agency official should refer the borrower to their attorney, as it is the attorney/borrower's responsibility to provide FSA with the agreement. If the borrower does not have an attorney, the reaffirmation documents can be obtained from the U.S. courts website referenced in subparagraph 403 A.

The authorized agency official must review boxes 1 through 5 of the borrower's prepared Cover Sheet for Reaffirmation Agreement and all of Part I of the borrower's prepared Reaffirmation Agreement for accuracy and to ensure it does not change the terms of the outstanding agency indebtedness before signing the Reaffirmation Agreement. The authorized agency official may assist the borrower by providing this information to the borrower's attorney or to the borrower.

Once the borrower obtains permission from the court and reaffirms the debt, the authorized agency official will process the primary loan servicing application, or remaining servicing ***--**options as indicated in FSA-2573.

If the borrower reaffirms the debt in order to be considered for primary loan servicing as indicated in FSA-2573, but FSA later denies the servicing, the borrower may revoke the**--*** reaffirmation to the extent allowed by provisions of the Bankruptcy Code.

403 Filing POC

A Role of the State Office

In a bankruptcy case, the State Office will determine whether FSA has security for the debt and whether the debtor has other assets from which FSA could make a substantial collection. In making this determination, the State Office must request additional information as needed from the authorized agency official.

Unless the bankruptcy case is characterized as a no-asset Chapter 7, FSA is required to file POC to receive payments from a debtor in bankruptcy. Copies of all official bankruptcy forms can be found at https://www.uscourts.gov/forms/bankruptcy-forms.

POC should be filed using the document from the U.S. courts website or similar document approved by the court. FSA's POC must be accompanied by supporting documentation that is properly redacted to protect personally identifiable information according to FSA policy and Bankruptcy Court requirements. Supporting documentation would include:

- copies of all properly redacted promissory notes and addenda (including copies of promissory notes that were previously restructured)
- copies of all assumption agreements, shared appreciation agreements, disaster set asides, distressed borrower set asides, and supplemental payment agreements
- copies of all recorded mortgages/deeds of trust
- copies of all security agreements
- evidence of perfection of a security interest (i.e., copies of all UCC filings) as well as EFS filings (if applicable)
- a copy of the judgment of foreclosure (if applicable)
- ***--**in a Chapter 13 bankruptcy, if FSA has a lien on the debtor's primary residence, FSA must also prepare and attach form B410A.**--***

Note: If any FSA loan documents or security instruments are lost or have been destroyed, FSA should include an affidavit or declaration that explains the circumstances of the loss or destruction. Consult with OGC regarding the proper format for the *--declaration.**--***

State Office will consider registering for a PACER account to file POC electronically if permitted by the bankruptcy court. State Office may consider providing access to PACER for field staff. A Statewide shared login and password may be used as allowed by PACER. For more information, see https://www.uscourts.gov/court-records/electronic-filing-cmecf.

405 FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction (Continued)

B Servicing When the Bankruptcy Is Dismissed Without a Confirmed Plan and the Borrower Is in Default

If the Court dismisses a bankruptcy case and the borrower is in default on FLP loans, the authorized agency official will notify the borrower of any remaining servicing options unless:

- OGC advises that notification is inconsistent with the Bankruptcy Code, 11 U.S.C. §101 et seq.
- FSA has referred the borrower's loan to DOJ
- FSA has previously accelerated the loan, as all of the borrower's servicing rights are exhausted.

If the borrower is in default and all loan servicing options are exhausted, FSA will proceed to liquidate the security according to Part 15 with concurrence from OGC.

C Servicing a Borrower When a Bankruptcy Is Dismissed After a Confirmed Plan

If the borrower makes at least 1 full payment to FSA on the confirmed plan before the bankruptcy is dismissed, the authorized agency official will send the borrower a new servicing notification package unless FSA has previously accelerated the account.

Example 1: A borrower was 90 calendar days past due on January 1. The authorized agency official notified the borrower of available Primary Loan Servicing options on January 15. The borrower received the servicing package on January 20. The borrower did not respond to the servicing notification and remained delinquent. FSA sent the Notice of Intent to Accelerate on April 30. On May 15, FSA was notified that the borrower filed Chapter 12 bankruptcy. *--The authorized agency official sends the FSA-2573 to the borrower's--* attorney stating the borrower has exhausted all servicing options. The court enters the confirmed plan on June 15 and FSA restructures the borrower's account. The borrower makes 1 full payment on the confirmed plan. On August 1, FSA receives an order of dismissal. FSA reverts the borrower's account to pre-petition terms and proceeds with acceleration.

Exception: If the payment de-accelerated the account under State law, a new servicing notification package is required. SED will issue a State supplement to clarify this exception.

405 FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction (Continued)

C Servicing a Borrower When a Bankruptcy Is Dismissed After a Confirmed Plan (Continued)

If the borrower does not make at least 1 full payment to FSA according to the confirmed plan, the authorized agency official will send notification of the remaining servicing options based on the previous notification. If the borrower is in default and all loan servicing options are exhausted, FSA will proceed to liquidate the security according to Part 15.

Example 2: A borrower was 90 calendar days past due on January 1. The authorized agency official notified the borrower of available Primary Loan Servicing options on January 15. The borrower received the servicing package on January 20. On February 15, FSA was notified that the borrower filed Chapter *--12 bankruptcy. The authorized agency official sends FSA-2573 to the**--*** borrower's attorney providing 60 calendar days to apply for servicing and stating that all servicing options remain available. The borrower does not return the servicing package. The court enters the confirmed plan on March 15 and FSA restructures the borrower's account. The borrower makes 1 full payment on the confirmed plan. On June 1, FSA receives an order of dismissal. FSA reverts the borrower's account to pre-petition terms and re-notifies the borrower of remaining Primary Loan Servicing options. The borrower will have 35 days (balance of time remaining from the original servicing notification to the petition date) from the date of receiving the applicable servicing notice to apply for servicing.

D Returning the Borrowers Account to Pre-Petition Terms When a Bankruptcy Is Dismissed After a Confirmed Plan

Within 30 calendar days of receiving notification from the bankruptcy court of the order of dismissal, SED will submit FSA-2574 to RD Business Center, FLB to reverse the payments on the post-petition loan and reinstate the terms of the pre-petition note. Any reversed payments should be reapplied to the pre-petition note, effective as of the same date the payment was originally received.

E Resuming TOP and Internal Offset

OGC will be consulted before FSA determines whether the borrower is eligible for offset according to 7-FLP, Parts 3 and 4.

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed

A Removing the "SAA" Flag and Writing Off Discharged Debt

Upon receipt of the discharge order from the Bankruptcy Court, the authorized agency official will review the borrower's records to determine whether FSA will cancel any discharged debt.

--**If all liable parties are discharged, no security remains for that portion of the debt, and the**-- bankruptcy is closed, the authorized agency official will debt settle the remaining discharged debt according to 7-FLP, Part 12.

The State Office will forward the approved FSA-2731, with a copy of the discharge, to RD Business Center, FLB for processing the debt cancellation.

RD Business Center, FLB will remove the "SAA" flag and process the necessary transactions to write off any portion of the debt.

B Servicing Remaining Liable Parties

If some, but not all, of the liable parties were discharged of the debt, the authorized agency official will:

- consult with the regional OGC to determine what, if any, collection action can be taken against non-discharged individuals, entities, etc., and any remaining security

- take all allowable collection actions in a timely manner, including collection of unsecured *--account balances that were not discharged through offset and referral to Treasury as**--*** set forth in 7-FLP

- determine whether a partial cancellation of the debt, such as canceling the discharged debt amount that is still owed by the non-discharged individuals, would be appropriate and/or financially beneficial to the Government

  Note: Unless they meet the requirements for FSA-2731, Cancellation of Debt Without Application, partial cancellation of debt requires each non-discharged individual to complete FSA-2732, Debt Settlement Application. Partial debt settlement applications will be processed according to 7-FLP Part 12 with FSA-2731 and FSA-2732 transactions processed concurrently.

- monitor these accounts closely to ensure timely resolution.

C Returning to Regular Servicing

After the bankruptcy case is closed, the authorized agency official will service bankruptcy loans according to 4-FLP, subject to the confirmed reorganization plan.

407 Liquidation During Bankruptcy (Continued)

A Automatic Stay Requirements (Continued)

If FSA becomes aware during the course of a bankruptcy that the borrower has abandoned FSA's collateral, FSA should consult with OGC to determine what actions are necessary to secure, maintain, preserve, manage, and operate the abandoned security property according to 7 CFR 767.51 and FSA security instruments. It is recommended that reliable third-party documentation and/or OGC opinions be obtained to support FSA's actions. See 5-FLP, Part 18 for additional guidance.

If the borrower will not cooperate in allowing FSA access to the property, security or removal of the security, the authorized agency official will report the borrower's actions to State Office. State Office will consult with OGC.

--**In the case of a surrender, after FSA obtains relief from stay, FSA may still determine it is in the Agency's best interest to work with the borrower toward voluntary liquidation as found in 7 CFR 766.532 and 5-FLP Part 13 or voluntary conveyance as found in 7 CFR 766.353 and 5-FLP Part 14.**--

407 Liquidation During Bankruptcy (Continued)

B Chapter 7 Cases After Discharge

In Chapter 7 cases after discharge, FSA will liquidate delinquent accounts as authorized by OGC if both of the following are true:

- the borrower has not reaffirmed the debt
- an Abandonment Order for FSA security has been issued by the court or the bankruptcy case is closed.

***--**The borrower was previously notified of default using FSA-2573 or FSA-2577 – if the borrower was not past due or monetary default was not included in FSA-2573, then the borrower must be notified of the monetary default before accelerating the account.

Note: FSA-2578 must be sent by certified mail to the borrower.**--***

In some cases, discharged borrowers who did not reaffirm their FSA debt desire to maintain ownership of the property by keeping FSA loan payments current at the time of the ***--**bankruptcy and continuing into the future. In these cases, borrowers will be sent FSA-2577 to remind them of their rights and FSA requirements.

Note: Flag Chapter 7 discharge accounts as SAA when borrower agrees to keep the account current in response to FSA-2577. To establish an account flag, FSA-2562 will be sent to the RD Business Center.

However, should the borrower later default on the payments, the borrower needs to be notified of the default using FSA-2578. FSA-2578 will be sent 90 calendar days after**--*** default or before acceleration for borrower only in nonmonetary default. If the borrower does not resolve the default, FSA will accelerate the account as referenced above.

--Note:** Do not send FSA-2577 if the borrower does not intend to keep loan payments**-- current**.**

In cases when 1 or more borrowers have received a discharge, but at least 1 borrower remains liable:

- DLS must be updated with either a 4A or 4D transaction to list the account in the name of any remaining liable debtors
- ***--**related entity status of the discharged individuals or entities will remain linked in the DLS Customer Profile Related Entity function.

  Note: To reflect they are no longer a co-borrower/cosigner/guarantor, the authorized agency official will maintain a list of borrowers and co-borrowers discharged in bankruptcy who were released of liability. This list will be maintained in Operational Folder FLPF-5.**--***

407 Liquidation During Bankruptcy (Continued)

B Chapter 7 Cases After Discharge (Continued)

***--**The following information will be documented for each former borrower:

- borrower name
- FSA borrower ID
- loan numbers
- date of discharge
- copy of discharge order

Note: See DLS User Guide for additional information.

- the Chapter 7 discharge order must be maintained in the case file.

Note: During the TOP Critical pre-letter screening, the authorized agency official will review the list maintained in Operational Folder FLPF-5. If the individual is listed on the TOP Eligible Screen titled “Borrowers Eligible for TOP Offset”, the authorized agency official will apply delete code 02.**--***

Collection of unsecured account balances will continue for all remaining liable borrowers through offset and referral to Treasury as set forth in 7-FLP.

In community property States:

- the authorized agency official will consult with the regional OGC, as needed, before pursuing separate collection action against a non-discharged borrower who is the spouse of a discharged borrower

- when collection action cannot be taken against a non-discharged spouse and the non-discharged spouse is the only remaining liable obligor for the unsecured loan balance, only the individual or entity receiving the discharge will be listed on FSA-2731.

C Canceling the Debt When All Liable Parties Are Discharged

If all liable parties are discharged and the FSA security is liquidated, FSA may cancel the debt using FSA-2731 according to 7-FLP, Part 12.

D Notifying Borrower if Servicing Options Are Remaining

If the authorized agency official did not previously notify the borrower’s attorney or borrower of any servicing options before or during the course of the bankruptcy proceedings, FSA will send the notices according to subparagraph 401 E before liquidating any security property.

407 Liquidation During Bankruptcy (Continued)

E When FSA Previously Notified the Borrower of Servicing Options

If the authorized agency official previously notified the borrower’s attorney or borrower of the remaining servicing options and none remain, FSA will accelerate the account and liquidate according to Part 16 and any instructions from OGC.

Note: The borrower may not appeal the acceleration.

F Discharged Borrower Keeps FLP Loans Current

Borrowers who have received a bankruptcy discharge may continue to pay FLP loans that are secured by real estate or basic security. In these cases, OGC may advise that foreclosing against the security is not possible unless the secured loans become delinquent.

The authorized agency official will:

- ensure that the account remains flagged “BAP” according to subparagraph 401 B
- monitor the TOP screens to ensure that all unsecured discharged loans are removed from TOP consideration according to 7-FLP, Part 4
- continue monitoring the account until the secured loans are paid in full or become delinquent.

If the secured loans become delinquent, consult with the regional OGC, as needed, to determine whether any additional notices must be sent before liquidating the security.

In some cases, it may be appropriate and/or in the Government’s best interest to process partial cancellation of debt. Partial cancellation will be completed using FSA-2731 according to 7-FLP, Part 12.

Partial cancellation in these situations may assist FSA to:

- comply with the bankruptcy discharge order by ensuring that no erroneous offset collection is taken on the discharged unsecured loans that are still showing as delinquent in FSA’s financial system
- reduce the amount of uncollectible debt FSA must continue to monitor and include in reports.

408 (Withdrawn--Amend. 47)

409 (Withdrawn--Amend. 49)

421 Handling Civil and Criminal Cases (Continued)

E Notification to Third Party Purchasers When a Borrower Has Not Properly Accounted for Proceeds

When a borrower has not properly accounted for the proceeds of the sale of security, FSA will first look to the borrower for restitution. If FSA is in liquidation, FSA will usually attempt to liquidate remaining personal property security on which FSA holds a first lien before making demand or taking civil action against third party purchasers. However, FSA will, with SED concurrence, notify a third party purchaser according to 4-FLP, paragraph 181 when it is necessary to protect the interest of the Government.

F Notification When a Borrower Has Not Properly Accounted for Proceeds

When a borrower has not properly accounted for the proceeds of the sale of security, FSA will service the account according to 4-FLP, Part 7.

G Deficiency Judgment

In some cases, it is in the Government's best interest to obtain a deficiency judgment for balances remaining after all security has been liquidated.

The authorized agency official will:

- make a recommendation about whether a deficiency judgment should be pursued ***--**according to subparagraph 533 D**--***

- include information about nonsecurity assets on which a judgment lien may be obtained when referring cases to the State Office according to subparagraph C.

--Notes:** See paragraph 9 for available LexisNexis assistance in identifying assets that may be available to support a deficiency judgment.**--

Pursuing a deficiency judgment on every case is **not** advisable and may not be a good use of Government resources.

421 Handling Civil and Criminal Cases (Continued)

***--H Establishing Deficiency Judgement on RD Business Center Records**

RD Business Center, FLB will establish deficiency judgements when requested by the**--*** State Office. Before requesting FLB to process a deficiency judgement, the State Office must ensure that collections through foreclosure (when applicable) have been credited to the account. With the written request for a deficiency judgement, the State Office will provide FLB with a copy**--*** of the court approved deficiency judgement, a list of the loans covered by the judgement and the judgement interest rate.

Deficiency judgements will be serviced under 7-FLP, Part 11.

Note: See 1-FLP, Exhibit 17 for the current Treasury Judgement Rate.

422-430 (Reserved)

Section 3 (Withdrawn--Amend. 34)

431-434 (Withdrawn--Amend. 34)

435-440 (Reserved)

444 General Issues (Continued)

B NP Borrowers

[7 CFR 766.351(c)] If a borrower has both Program and Non-program loans, the borrower's account will be handled in accordance with paragraph (b) (subparagraph 442 B) **of this section. If a borrower with only Non-program loans is in default, the borrower may liquidate voluntarily, subject to the following:**

(1) The Agency may delay involuntary liquidation actions when in the Agency's financial interest for a period not to exceed 60 days.

(2) The borrower must obtain the Agency's consent prior to the sale of the property.

(3) If the borrower will not pay the Agency in full, the minimum sales price must be the market value of the property as determined by the Agency.

(4) The Agency will accept a conveyance offer only when it is in the Agency's financial interest.

See the automated worksheet in Exhibit 37 to help determine whether an offer of voluntary conveyance is in FSA's best interest.

(5) If a Non-program borrower does not cure the default, or cannot or will not voluntarily liquidate, the Agency will accelerate the loan.

--**FSA-2527 will be used to notify NP borrowers of the default 10 calendar days after a payment is missed. At 30 calendar days past due, NP borrowers will then be informed by FSA-2528 that the account must be brought current or a liquidation plan submitted and that no further notice will be given before acceleration. FSA will begin servicing toward acceleration at 60 calendar days, according to paragraph 532. DD will send FSA-2552 or FSA-2553 (for NP borrower who were discharged in bankruptcy) as soon as possible after**-- the account is 90 calendar days past due by certified and regular mail on the same day.

In accordance with 1-APP, subparagraph 10 A, decisions or communications about nonprogram loans are not subject to appeal, mediation, or appealability review.

See 7-FLP, Parts 3, 4, and 5 for offset guidance.

444 General Issues (Continued)

C Multiple Loans and Multiple Types of Security

When a borrower has more than one FSA loan, FSA will involuntarily liquidate real estate *--and personal property for all the borrower's loans within a similar time period according to Part 16.

When a borrower liquidates both real property and personal property security, the borrower must follow the applicable procedures for liquidating each type of security. If a borrower intends to liquidate personal property security that may be considered a fixture on real property, the authorized agency official will determine whether the borrower may liquidate the personal property as part of the real property. This approach may be appropriate for irrigation equipment or other fixtures that serve as security for FO or other FSA loans. If the equipment or fixture does not contribute to the value of the real property or it is otherwise in FSA's best interest, FSA may require the borrower to sell the equipment or fixture as personal property.--*

445-460 (Reserved)

Part 15 Loan Acceleration

531 General Requirements

A Acceleration Differs Among States

The loans will be accelerated when FSA determines that a borrower cannot or will not meet their FSA loan obligations and all applicable loan servicing options have been offered and concluded. SED, in consultation with OGC, will issue a State supplement to provide detailed *--guidance on acceleration. FSA-2555, FSA-2556, FSA-2557, and/or FSA-2558 will be used to accelerate an account unless specifically modified by OGC.

See paragraph 444 for acceleration of NP only accounts.**--***

B Recordkeeping

During the acceleration process, the authorized agency official must make entries into the FBP running record on the acceleration process and retain any letters, forms or documentation associated with the acceleration that are required by this handbook and State supplements.

* * *

*--532 Conditions for Acceleration

A Ensuring That Servicing Rights Have Elapsed--*

[7 CFR 766.355(a)(1)] The Agency accelerates loans in accordance with this section, unless:

(i) State law imposes separate restrictions on accelerations.

(ii) The borrower is American Indian, whose real estate is located on an Indian reservation.

Acceleration of American Indian borrowers whose real estate is located on an Indian reservation is addressed in paragraph 537.

[7 CFR 766.355(a)(3)] All borrowers must receive prior notification in accordance with subpart C (Part 3) **of this part, except for borrowers who fail to graduate in accordance with § 766.101(a)(8).**

If a borrower meets all of the following conditions, FSA moves to accelerate the borrower's loans.

The borrower is in monetary or non-monetary default according to Part 3.

The borrower cannot or will not cure the default. A borrower meets this condition when the borrower is not eligible for primary loan servicing, does not accept FSA's servicing offer, or does not apply for primary loan servicing, after receiving all the appropriate notifications according to Parts 3 and 6.

The borrower has completed all PLS appeals and mediation according to Part 6 and 1-APP and is not under court jurisdiction that bars FSA from acceleration.

--**The authorized agency official will ensure that FSA-2580 has been completed for primary loan servicing. FSA-2580 is not required in cases referred for acceleration because of the borrower's failure to graduate or for acceleration of only nonprogram loans.**--

*--532 Conditions for Acceleration (Continued)

B Civil Rights and Primary Loan Servicing Reviews

FSA-2581 is used to document and certify that FSA fully and appropriately considered the borrower for servicing and that there is no evidence of inconsistencies, inequitable treatment, or discrimination complaints.

Within 45 calendar days of receiving the case file from the County Office, DD will:

- complete FSA-2581, Part A
- submit FSA-2580 (for accounts with primary loan servicing) and FSA-2581 with case files to SCRRG for action.

Note: FLC or designee will review PLS actions and sign FSA-2580 as reviewer.

According to item 18 of FSA-2581, the SCRRG may return a case to the local service center (with a copy to SM.FSA.DCWa7.DirectLoans or **fsa-directloans@usda.gov**) for corrective PLS action. If problems with PLS are identified before completion of FSA-2581, FLC is authorized to provide guidance regarding corrective PLS action.

Note: FLC authority may be re-delegated to an experienced FLS.

SCRRG consists of SED, FLC, and the State civil rights coordinator. Once SCRRG determines that acceleration can continue and documents this decision on FSA-2581, Parts B and C, the account will be submitted for discrimination complaint status clearance according to 1-FLP, Exhibit 12. Once the discrimination complaint status clearance process has been completed indicating that acceleration can continue, FSA-2581 will be returned to the service center to prepare for acceleration.**--***

533 Acceleration Actions

A Preparation of the Case File

When the borrower meets the conditions for acceleration, the authorized agency official will ***--**prepare the case file for acceleration using FSA-2550.

Note: New problem case report forms are under development. Updated guidance will be provided when these forms are issued.

B Determining Prior Liens--*

If current lien information is not in the case file, the authorized agency official will obtain a title or lien search on all security property to determine whether there are any prior liens on the property.

533 Acceleration Actions (Continued)

--C Property Value--

The authorized agency official will include either the estimated value or appraised value of the security in the case file. The authorized agency official may estimate the market value of the property, unless there are prior liens other than a current-year tax lien. If there are prior liens, the authorized agency official must obtain an appraisal to determine the "as is" market value of the property according to 1-FLP, Part 6, unless a State supplement allows the use of an estimated value.

--D Narrative and Deficiency Judgment Recommendation--

The authorized agency official will include a narrative description of the borrower's financial condition and the conclusion of all appeals and mediation in the FBP.

The authorized agency official will recommend to the DD whether FSA should pursue a deficiency judgment. To make a recommendation, the authorized agency official will determine whether foreclosure will likely satisfy the borrower's FSA debt. The basic formula for this calculation is:

> Sale price - sale costs (if considered separate from recoverable costs and expenses) - recoverable costs and expenses to be charged - prior liens = net proceeds.

This calculation is an estimate. It may not be used as the basis for charging or crediting the borrower's account. In using this formula, the authorized agency official must be aware of what costs are charged to the borrower's account and what costs are deducted from the amount credited to the borrower's account.

If the liquidation will not satisfy the borrower's FSA account, FSA will assess the borrower's financial situation to determine whether further recovery on the account is possible through a ***--**deficiency judgment. See paragraph 9 for available LexisNexis assistance in identifying assets that may be available to support a deficiency judgment. The authorized agency official will include these findings and a recommendation in the borrower's FBP. See Exhibit 47 on SOL for deficiency judgements.

If the borrower's account could be referred to DOJ for foreclosure and/or other collection action after foreclosure, such as a deficiency judgment or enforcing a judgment lien according to 7-FLP, Part 11, any attorney's fees and any fees charged by DOJ will be added to the debt.

***--E Submitting the Problem Case File**

The problem case file will be submitted to the DD within 60 calendar days of SCRRG approval on FSA-2581.**--***

534 Accelerating a Borrower's Loans

A Approving Acceleration

DD will review the problem case file and if the account meets the acceleration criteria according to paragraphs 532 * * *, the account will be accelerated.

B Returning the File

If DD does not concur with acceleration or the file is not complete, the file will be returned to the authorized agency official with a request for additional information or instructions for additional servicing actions.

C Proceeding With Acceleration

[7 CFR 766.355(a)(2)] The Agency accelerates all of the borrower's loans at the same time, regardless of whether each individual loan is delinquent or not.

DD accelerates all the borrower's loans and any shared appreciation agreements, unless the ***--**borrower meets any of the following conditions:**--***

- if the borrower is in default because of a failure to graduate, DD will send the file through the State Office to obtain OGC's concurrence before acceleration
- ***--**if the borrower is in military service, 4-FLP, subparagraph 283 D, restricts acceleration and foreclosure activities. DD will confer with FLC for review and instructions
- borrower is subject to the 2008 Farm Bill Acceleration Moratorium as provided in 7 CFR 766.358 (1-FLP, paragraph 41).**--***

On an individual case-by-case basis for borrowers in bankruptcy, an exception under 7 CFR 766.401 and subparagraph 4 D allowing acceleration of individual loans under 766.355(a)(2) may be approved by SED upon confirmation of a plan when:

- borrower elects to surrender a portion of the collateral under a confirmed bankruptcy plan
- DD or FLC has obtained written guidance from OGC confirming acceleration of individual loans are appropriate based upon the confirmed plan.

* * *

Note: The SED exception authority may be further delegated to FLC or DD.

FSA should consult with OGC to consider objecting to any plan that surrenders less than all of the collateral securing an individual loan.

534 Accelerating a Borrower's Loans (Continued)

C Proceeding With Acceleration (Continued)

Note: When individual loans are accelerated under this exception, the agency may only liquidate the surrendered collateral. As a result, any references to "account" found in 7 CFR 766.351, 766.355(c), 766.355(e), or 766.357 apply only to the individual loans that have been accelerated when an Administrator's exception has been applied under this subparagraph.

For partial liquidations of surrendered collateral see subparagraph 407 A.

D Mailing the Acceleration Notice

*--DD will send FSA-2555, FSA-2556, FSA-2557, and/or FSA-2558, as appropriate according to State instructions, to the borrower by certified and regular mail on the same day. FSA-2555, FSA-2556, FSA-2557, and/or FSA-2558 will be sent to the last known address**--*** of the entity and each obligor who signed any promissory notes. *** * ***

DD will:

- ***--**send the authorized agency official a copy of FSA-2555, FSA-2556, FSA-2557, and/or FSA-2558 sent to the borrower**--***
- ensure that FSA-2562 is completed correctly
- submit FSA-2562 to the State Office to flag the account "ACL".

Note: The ACL flag (Exhibit 11) will be removed when the account is paid in full, debt settled, or decelerated for any reason.

535 Payments After Acceleration

A Time Limitations

[7 CFR 766.355(b)] The borrower has 30 days from the date of the Agency acceleration notice to pay the Agency in full.

B Payment Methods

[7 CFR 766.355(c)] The borrower may:

--[7 CFR 766.355(c)(1)] Pay the account in full;--

Acceptable forms of payment and processing payments are described in 4-FLP, Part 5.

[7 CFR 766.355(c)(2)] Transfer the security to a third party in accordance with Part 765, subpart I (4-FLP, Part 9) **of this chapter;**

[7 CFR 766.355(c)(3)] Sell the security property in accordance with §766.352 (Part 13)**; or**

[7 CFR 766.355(c)(4)] Voluntarily convey the security to the Agency in accordance with §§ 766.353 and 766.354 (Part 14)**, as appropriate.**

C Partial Payments

[7 CFR 766.355(d)] The Agency may accept a payment that does not cover the unpaid balance of the accelerated loan if the borrower is in the process of selling security, unless acceptance of the payment would reverse the acceleration.

SED, in consultation with OGC, will issue a State supplement providing guidance on each State's policy and procedures for accepting partial payments.

D Borrower Files for Bankruptcy

If the borrower files for bankruptcy after FSA accelerates the account, FSA will suspend foreclosure and proceed according to Part 11.

536 Proceeding After Acceleration Deadlines

A Failure to Satisfy the Debt

[7 CFR 766.355(e)] The Agency will liquidate the borrower's account in accordance with § 766.357 (Part 16) **if the borrower does not pay the account in full within the time period specified in the acceleration notice.**

B Forwarding the Case File

DD will forward the case file with all relevant information and documentation to SED.

C Account Information

*--In judicial foreclosure States, SED will complete FSA-2560 to request FSA-2561 from RD Business Center if required by the U.S. Attorney. RD Business Center, FLB will respond with FSA-2561. In nonjudicial foreclosure States, the account balance and recapture information may be obtained from Field Office files and RD Business Center ADPS systems.**--***

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation

A Acceleration of Loans to American Indian Borrowers

[7 CFR 766.356] (a)(1) The Agency accelerates loans to American Indian borrowers whose real estate is located on an Indian reservation in accordance with this section, unless State law imposes separate restrictions on accelerations.

(2) The Agency accelerates all of the borrower's loans at the same time, regardless of whether each individual loan is delinquent or not.

DD accelerates all the borrower's loans and any shared appreciation agreements, unless the ***--**borrower meets any of the following conditions:**--***

- if the borrower is in default because of a failure to graduate, DD will send the file through the State Office to obtain OGC's concurrence before acceleration

- ***--**if the borrower is in military service, 4-FLP, subparagraph 283 D, restricts acceleration and foreclosure activities. DD will confer with FLC for review and instructions.

- borrower is subject to the 2008 Farm Bill Acceleration Moratorium as provided in 7 CFR 766.358 (1-FLP, paragraph 41).**--***

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

A Acceleration of Loans to American Indian Borrowers (Continued)

On an individual case-by-case basis for borrowers in bankruptcy, an exception under 7 CFR 766.401 and subparagraph 4 D allowing acceleration of individual loans under 766.356(a)(2) may be approved by SED upon confirmation of a plan when:

- borrower elects to surrender a portion of the collateral under a confirmed bankruptcy plan
- DD or FLC has obtained written guidance from OGC confirming acceleration of individual loans are appropriate based upon the confirmed plan.

*** * ***

Note: SED's exception authority may be further delegated to FLC or DD.

FSA should consult with OGC to consider objecting to any plan that surrenders less than all of the collateral securing an individual loan.

Note: When individual loans are accelerated under this exception, the agency may only liquidate the surrendered collateral. As a result, any references to "account" found in 766.351, 766.356(b), 766.356(e), or 766.357 apply only to the individual loans that have been accelerated when an Administrator's exception has been applied under this subparagraph.

For partial liquidations of surrendered collateral under a confirmed plan in bankruptcy refer to subparagraph 407 A.

(3) All borrowers must receive prior notification in accordance with subpart C of this part (Part 3)**, except for borrowers who fail to graduate in accordance with § 766.101(a)(8)** (subparagraph 66 A)**.**

***--**If a borrower meets all of the following conditions, FSA moves to accelerate the borrower's loans.

- The borrower is in monetary or non-monetary default according to Part 3.
- The borrower cannot or will not cure the default. A borrower meets this condition when the borrower is not eligible for primary loan servicing, does not accept FSA's servicing offer, or does not apply for primary loan servicing, after receiving all the appropriate notifications according to Parts 3 and 6.
- The borrower has completed all PLS appeals and mediation according to Part 6 and 1-APP and is not under court jurisdiction that bars FSA from acceleration.**--***

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

A Acceleration of Loans to American Indian Borrowers (Continued)

- ***--**The authorized agency official has completed FSA-2580 for primary loan servicing. FSA-2580 is not required in cases referred for acceleration because of the borrower's failure to graduate or for acceleration of only nonprogram loans.

See subparagraph 532 B for SCRRG and civil rights clearance requirements before acceleration.

See paragraph 533 for problem case report preparation.**--***

(8) **At the time of acceleration, the Agency will notify the borrower and the Tribe that has jurisdiction over the Indian reservation of:**

(8) **The possible outcomes of a foreclosure sale and the potential impacts of those outcomes on rights established under paragraphs (a)(4)(ii) and (iii) of this section;**

(ii) The priority for purchase of the property acquired by the Agency through voluntary conveyance or foreclosure;

(8) **Transfer of acquired property to the Secretary of the Interior if the priority of purchase of the property established under paragraph (a)(4)(ii) of this section is not exercised.**

(b) The Agency will notify an American Indian borrower of the right to:

(8) **Request the Tribe, having jurisdiction over the Indian reservation in which the real property is located, be assigned the loan;**

(8) **The Tribe will have 30 days after the Agency notification of such request to accept the assignment of the loan.**

(ii) The Tribe must pay the Agency the lesser of the outstanding Agency indebtedness secured by the real estate or the market value of the property.

(8) **The Tribe may pay the amount in a lump sum or according to the rates, terms and requirements established in part 770 of this chapter** (6-FLP, Part 2, Section 3)**, subject to the following:**

(8) **The Tribe must execute the promissory note and loan documents within 90 days of receipt from the Agency;**

(B) Such loan may not be considered for debt write-down under 7 CFR part 770.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

A Acceleration of Loans to American Indian Borrowers (Continued)

(iv) The Tribe's failure to respond to the request for assignment of the loan or to finalize the assignment transaction within the time provided, shall be treated as the Tribe's denial of the request.

(2) Request the loan be assigned to the Secretary of the Interior. The Secretary of the Interior's failure to respond to the request for assignment of the loan or to finalize the assignment transaction, shall be treated as denial of the request;

(3) Voluntarily convey the real estate property to the Agency;

(i) The Agency will conduct a environmental review before accepting voluntary conveyance.

(ii) The Agency will credit the account with the greater of the market value of the real estate or the amount of the debt.

(4) Sell the real estate;

(i) The buyer must have the financial ability to buy the property.

(ii) The sale of the property must be completed within 90 calendar days of the Agency's notification.

(iii) The loan can be transferred and assumed by an eligible buyer.

(5) Pay the Agency debt in full.

(6) Consult with the Tribe that has jurisdiction over the Indian reservation to determine if State or Tribal law provides rights and protections that are more beneficial than those provided under this section.

(c) At the time of acceleration, the Agency will notify the Tribe that has jurisdiction over the Indian reservation in which the property is located, of the:

(1) Sale of the American Indian borrower's property;

(2) Market value of the property;

(3) Amount the Tribe would be required to pay the Agency for assignment of the loan.

(d) The Agency may accept a payment that does not cover the unpaid balance of the accelerated loan if the borrower is in the process of selling security, unless acceptance of the payment would reverse the acceleration.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

A Acceleration of Loans to American Indian Borrowers (Continued)

(e) The Agency will liquidate the borrower's account in accordance with § 766.357 (Part 16) **if:**

(1) The borrower does not pay the account in full within the time period specified in the acceleration notice;

(2) The borrower does not voluntarily convey the property to the Agency;

(3) Neither the Tribe nor the Secretary of the Interior accepts assignment of the borrower's loan.

B General Requirements

CONACT requires FSA to provide certain American Indian borrowers notification of additional opportunities or alternatives for resolution of their FSA real estate secured debt before final FSA action to liquidate this real estate through foreclosure. These actions only apply to American Indian borrowers whose real estate security is 1 of the following:

- located within a Federally Recognized Indian Reservation
- trust or restricted land located within the boundaries of a former reservation of a Federally Recognized Indian Tribe in Oklahoma
- on Indian allotments, the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally Recognized Indian Tribe.

CONACT requires that this group of borrowers be notified of the right to do either of the following:

- request FSA to assign notes and security instruments either to the Secretary of Interior, if the Secretary is willing to accept the assignment, or to the Tribe with jurisdiction over the reservation in which the property is located, if the Tribe agrees to accept the assignment
- voluntarily convey the security to FSA
- sell the real estate *** * * ***.

Notification of these additional rights will take place along with the acceleration of a loan.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

C Notification

*--FSA-2559 will be used to accelerate all loans of American Indian borrowers that are secured by land located within a reservation, and to notify those borrowers of their rights. DD will send FSA-2559 by certified and regular mail on the same day.

FSA-2564 will be used to notify the Tribe of available options. DD will issue FSA-2564.

FSA-2563 provides additional/detailed information on borrower rights under existing law and FSA regulation and must be attached to each FSA-2559.--*

D Responsibilities

The authorized agency official responsible for servicing the American Indian borrower's account must do the following:

* * *

- *--notify the borrower by sending FSA-2559 and FSA-2563

  Notes: DD must sign FSA-2559 and FSA-2564.

  SED must have approved the foreclosure before FSA-2559 and FSA-2563 are sent. See paragraphs 533 and 534 for problem case report preparation, review, and approval.

- notify the Tribe by sending FSA-2564, of any FSA-2559 sent to a borrower who has--* pledged as collateral reservation land within such Tribe's jurisdiction.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

E Authorized Agency Official Responsibilities

Authorized agency officials must, upon receipt of a request from an American Indian borrower, do the following.

- If the borrower requests that the Tribe be assigned the loan, the authorized agency *--official must notify the Tribe of the borrower's request using FSA-2565.--*

  Notes: The Tribe must notify FSA within 30 calendar days of its intention to accept or deny the borrower's request.

  The notification to the Tribe must include a copy of the following:

  - current appraisal of the real estate and valuations of all personal property security
  - borrower's promissory notes to be assigned
  - security instruments
  - amount the Tribe would be required to pay FSA for assignment of the loan or loans

    Note: This amount will equal the lesser of the market value of all loan security or the principal and interest outstanding on the loan.

  - a statement that the Tribe may pay for the assignment transaction over a period of time under terms and conditions similar to ITLAP.

- If the borrower requests that the Secretary of Interior be assigned the loan, the authorized agency official must refer the request, along with a copy of each of the following, through SED, to the National Office:

  - current appraisal of remaining FSA security
  - borrower's promissory notes
  - all security instruments.

  Notes: The authorized agency official will forward the request and documentation to either of the following.

For USPS Delivery	For FedEx or UPS Delivery
USDA, FSA, DAFLP, LSPMD STOP 0523 1400 INDEPENDENCE AVE SW WASHINGTON DC 20250-0523	USDA, FSA, DAFLP, LSPMD *--ROOM 3635 SOUTH BUILDING--* 1400 INDEPENDENCE AVE SW WASHINGTON DC 20250-0523

  The National Office will work with the National Office of BIA to determine whether the Secretary of Interior will accept the assignment of the loan.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

E Authorized Agency Official Responsibilities (Continued)

The authorized agency official shall notify the borrower:

- that the request has been forwarded
- of the Tribe or Secretary of the Interior's decision as follows.

IF the…	THEN…
decision of the Tribe or the Secretary of Interior is to accept the borrower's loan assignment request	the authorized agency official shall notify the borrower using ***--**FSA-2566.**--***
Secretary of Interior has accepted the assignment	borrower's loan will be assigned to the Secretary of Interior pursuant to National Office instructions.
Tribe has indicated that it will accept an assignment of the loan and will seek to pay for the transaction over a period of time	the authorized agency official shall send the Tribe, for the Tribe to execute within 90 calendar days, FSA-2026 payable to FSA in exchange for the assignment of the loan, as well as any other loan documents required by FSA to finance this debt under rates and terms similar to an ITLAP loan, including an assignment of Tribal income as security for the Tribe's loan. FSA-2026 shall be prepared with the consideration amount as determined under this paragraph and with rates and terms similar to an ITLAP loan. **Note:** All ITLAP servicing options may be applied to these loans, except any write down servicing options.
Tribe has timely executed and returned the documents described in this paragraph	the authorized agency official shall send to the Tribe all original borrower promissory notes and mortgages being assigned, along with any other relevant security instruments. Agency documents provided to the Tribe shall be prepared, endorsed, processed, and delivered pursuant to guidance from the regional OGC.
decision of the Tribe or the Secretary of Interior is not to accept the assignment of the loan	the authorized agency official shall: • ***--**notify the borrower using FSA-2567**--*** • proceed with foreclosure action according to Part 16. **Note:** Failure of the Tribe to respond to a request that the Tribe accepts an assignment of the loan, or to finalize the loan assignment transaction within the time provided in this paragraph, shall be treated as a denial of the request.

The authorized agency official shall keep copies of all letters or documents sent or received in the borrower's loan file.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

***--F Authorized Agency Official or RD Business Center, FLB Responsibilities**

The authorized agency official or RD Business Center, FLB shall do the following.

- RD Business Center, FLB shall process all transactions related to the assignment of an**--*** American Indian account to a Tribe or the Secretary of Interior upon receipt of a transmittal letter from the servicing office accompanied by copies of the assignment agreement and promissory notes that are assigned.

- ***--**The servicing office transmittal letter must provide to RD Business Center, FLB the**--*** market value of the security assigned, number of acres under FSA security instruments, and amount of the annual installments to be paid by the Tribe under any ITLAP rate and term financing provided. If the Tribe pays the full assignment consideration price in cash (up front) as opposed to ITLAP rate and term financing, the servicing office transmittal ***--**letter will notify RD Business Center, FLB accordingly, including the information from the payment transmittal record.

- RD Business Center, FLB will close out the American Indian borrower's FSA loan**--*** account and no further FSA servicing action will be required in cases where the Secretary of Interior accepts the assignment.

- If the Tribe has accepted the assignment of the borrower's loan and has given FSA a new FSA-2026 for the purchase of the loan, payments received by FSA on a new Tribal loan taken to pay the assignment will follow the same guidelines currently used for regular ITLAP payment processing.

538-550 (Reserved)

Part 16 Involuntary Liquidation

Section 1 General Information

551 Introduction

A General Procedures

[7 CFR 766.351(a)(1)] When a borrower cannot or will not meet a loan obligation, the Agency will consider liquidating the borrower's account in accordance with this subpart.

FSA will move to liquidate security after acceleration.

The involuntary liquidation process differs among States, and in particular between judicial and nonjudicial foreclosure States. SED, in consultation with OGC, will issue a State supplement to provide detailed guidance on involuntary liquidation.

If the borrower does not resist FSA's efforts to collect the security, the authorized agency official will contact an auctioneer, the State Contracting Officer or other third party, as required by State policy to collect the security. To ensure adequate market research is completed for liquidation actions, three vendor quotes must be obtained, or documentation as to why they were not obtained must be provided.

See Exhibit 58, Judicial Foreclosure Best Practices for additional information about judicial foreclosure States.

[7 CFR 766.357(b)(4)] After the date of foreclosure, the borrower or former owner retains no statutory, implied, or inherent right of possession to the property beyond those rights granted by state law.

If FSA acquires property as a result of involuntary liquidation, the property becomes inventory property. FSA maintains and disposes of inventory property according to Part 21.

B Recordkeeping

During the involuntary liquidation process, the authorized agency official must make entries into the FBP running record on the liquidation process and retain any letters, forms, or documentation associated with the acceleration that are required by this handbook and State supplements.

551 Introduction (Continued)

C Conditions for Involuntary Liquidation

[7 CFR 766.357] (a) The Agency will liquidate the borrower's security if:

(3) The borrower does not satisfy the account in accordance with §§ 766.355 and 766.356 (Part 15)**, as appropriate;**

(4) The involuntary liquidation is in the Agency's financial interest.

***--**FSA will not foreclose on a borrower who is subject to protections provided by the Servicemembers Civil Relief Act and the Ronald W. Reagan National Defense Authorization Act for FY 2005 as provided by 7 CFR 765.161 (4-FLP Part 11).

Involuntary liquidation is not authorized when:

- the borrower is in military service

  Note: 4-FLP, subparagraph 283 D restricts acceleration and foreclosure activities. DD will confer with FLC for review and instructions.

- borrower is subject to the 2008 Farm Bill Acceleration Moratorium as provided in 7 CFR 766.358 (1-FLP, paragraph 41).**--***

D Charging the Borrower's Account

[7 CFR 766.357©(1)] The Agency will charge the borrower's account for all recoverable costs incurred by the Agency as a result of the repossession and sale of the property.

If the borrower's account is referred to DOJ for foreclosure and/or other collection action after foreclosure, such as a deficiency judgment or enforcing a judgment lien according to 7-FLP, Part 11, any attorney's fees and any fees routinely charged by DOJ will be added to the amount of debt reported to DOJ. Borrowers have been informed of this fee by notifications of offset and/or notifications of acceleration. SED will issue a State Supplement as required on the proper calculation of the amount to be reported to DOJ.

Note: If the account is to be paid in full, or upon the advice and guidance from the Regional OGC, request DAFLP concurrence to process the 3 percent DOJ fee as a noncash credit.

551 Introduction (Continued)

E Crediting the Borrower's Account

[7 CFR 766.357(c)(2)] The Agency will apply the proceeds from the repossession sale to the borrower's account less prior liens and all authorized liquidation costs.

F Outstanding Loan Balances Remaining After Repossession

[7 CFR 766.357(c)(3)] If an unpaid balance on the FLP loan remains after the sale of the repossessed property, the Agency will service the account in accordance with part 761, subpart F of this chapter and part 3 of this title. (7-FLP, Part 12)

For any outstanding balance remaining after foreclosure for which the borrower is still liable, if FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

In judicial foreclosure States only, unless the borrower voluntarily liquidated with a release of liability or debt settlement, SED completes FSA-2576 and completes a 3B transaction in ADPS to record a judgment account, if applicable.

*** * ***

552-565 (Reserved)

Section 2 Real Property

566 Proceeding With Foreclosure After Acceleration

A Failure to Satisfy FSA

If the borrower fails to pay the FSA debt in full before the acceleration deadline expires according to Part 15, FSA moves to involuntarily liquidate all of the borrower's FSA loan security.

B Conducting a Due Diligence Review

FSA must complete its due diligence process before taking real estate security into inventory via foreclosure or voluntary conveyance. The authorized agency official will conduct a due diligence review to assess environmental risk according to 2-EQ. At a minimum, a qualified agency official will complete FSA-851 to determine whether FSA requires a more detailed environmental review.

Prior departmental clearance will be obtained according to 2-EQ, subparagraph 61 D.

C National Historic Preservation Act

If the property may fall under the National Historic Preservation Act because of any of the criteria in 1-EQ, SED will note this in the State Office file on advice from the authorized agency official and DD to help eliminate any delays in selling the property after acquisition.

D Initiating Foreclosure

SED may forward the case file with all relevant information and documentation to OGC for required assistance in proceeding with foreclosure. If the borrower has leased the FSA real estate security, the authorized agency official must report the existence and conditions of the lease and report the name of the lessee to OGC.

SED may keep the borrower's file in the State Office. In this case, SED is responsible for initiating and processing the foreclosure process.

E Following State Law and Practices

SED, in consultation with OGC, will issue a State supplement providing guidance and instructions on processing a foreclosure. The authorized agency official, DD, SED, and OGC should maintain communication during the foreclosure process so all parties are aware of the status of the proceedings.

566 Proceeding With Foreclosure After Acceleration (Continued)

E Following State Law and Practices (Continued)

Note: No limitations period exists with respect to actions by government agencies to foreclose mortgages or deeds of trust per 28 U.S.C.A. § 2415(c). Accordingly, State limitations periods, and specifically those governing foreclosures, are not effective against the federal government. Regional OGC should be contacted for guidance on specific cases.

***--**28 U.S.C. section 2410(c) requires that any action to foreclose a lien in favor of the United States "must seek judicial sale." This means that judicial foreclosure must be completed by the prior lien holder, even in nonjudicial foreclosure States, to eliminate the junior lien held by a federal agency. Under the statute, the Federal Government typically has a 1 year redemption period.

Example: BIG Bank finances the borrower's house. FSA finances the borrower's farm and takes a lien junior to BIG Bank on the borrower's house to meet loan closing or restructure requirements. The security is located in a nonjudicial foreclosure State. For BIG Bank to eliminate FSA's junior lien, BIG Bank must complete a judicial foreclosure.

If FSA must foreclosure on a lien held by another federal agency in a nonjudicial foreclosure State, SED should seek regional OGC assistance in making the referral to the U.S. Attorney's Office for a judicial foreclosure.**--***

567 Foreclosure Sale

A "FAP" Flag

The account is flagged "FAP" using FSA-2562 by the State Office at the time the account is referred to OGC for foreclosure.

FAP flag (Exhibit 11) must be removed from the account if any of the following occur:

- foreclosure action is concluded on all available FSA security
- all FSA security is voluntary liquidated
- the account is paid in full
- any other action taken that result in foreclosure actions no longer being pursued on the account.

B Establishing a Judgment Account

In judicial foreclosure States only, SED establishes a judgment account after a judgment has been ordered by the court. To establish this account, the authorized agency official processes a 3B transaction in ADPS based on a completed FSA-2576.

567 Foreclosure Sale (Continued)

D Bidding at the Foreclosure Sale

SED determines the authorized bid amount according to subparagraph C and provides other instructions to the authorized agency official on attending and bidding at the foreclosure sale. When RD is the senior lienholder, only 1 bid will be entered, and that will be for the amount authorized by SED.

As authorized by SED, the authorized agency official usually enters FSA's bid when no other party makes a bid or the last bid would result in the property being sold for less than FSA's authorized bid. However, when FSA is not the senior lienholder and OGC advises that the borrower has no redemption rights or if a deficiency judgment will be obtained, SED may authorize the person who will bid for the Government to make incremental bids in competition with other bidders. If incremental bidding is desired, SED's instructions to the bidder will state the initial bid, bidding increments, and the maximum bid.

E Reporting on the Foreclosure Sale

After the foreclosure sale, the authorized agency official writes a report on the sale for SED. The report should contain, at a minimum:

- name of the successful bidder
- amount of the successful bid
- recommendation on any further actions required of FSA after the sale.

SED will forward this report to OGC and/or the U.S. Attorney, as appropriate.

568 FSA Actions After Foreclosure

A When FSA Acquires the Property

Within 10 workdays of the date FSA acquires the property, the authorized agency official will send, by certified mail, FSA-2540 to inform the borrower of homestead protection rights if a residence is on the property. The acquisition date for real estate is the date FSA records ***--**the deed. For personal property, the date of acquisition is the date the Bill of Sale or title**--*** is executed transferring ownership to FSA.

If FSA acquires the property at the foreclosure sale, the authorized agency official completes FSA-2587 and FSA-2588 and records the information in ADPS by completing a 3E transaction for acquired property and a 5L transaction for acquired property maintenance. For property subject to redemption rights, the authorized agency official waits until the redemption period expires to record the deed and complete the ADPS transaction. The authorized agency official prepares an inventory file according to paragraph 721 when FSA records the deed. State supplements may be issued as required to comply with State law.

568 FSA Actions After Foreclosure (Continued)

B Establishing an Inventory Account

--**RD Business Center, FLB will establish an inventory account for all acquired property**-- under the assigned property identification number. The value of the property is the market value of the property on the date of the foreclosure sale.

C Existing Leases

If FSA's foreclosure effort did not extinguish existing leases and if FSA acquires property while under lease, the authorized agency official:

- obtains and places a copy of the lease in the case file
- attempts to convert existing oral leases to writing on FSA-2591
- ***--**establishes a lease account in RD Business Center with a 1S transaction in ADPS**--***
- notifies the lessee in writing that the Government has acquired the property and where the lessee must send lease payments
- applies payments received by FSA that were due and payable before the date of FSA acquisition to any unsatisfied balance, and returns any surplus to the former borrower
- applies payments that are due and payable after the acquisition date to the lease account.

FSA does not extend the lease term and prefers not to sell property subject to a lease. FSA may discuss with the lessee the possibility of shortening or canceling the lease.

D Crediting the Borrower's Account

[7 CFR 766.357(b)(2)] If the Agency acquires the foreclosed property, the Agency will credit the borrower's account in the amount of the Agency's bid except when incremental bidding was used, in which case the amount of credit will be the maximum bid that was authorized. If the Agency does not acquire the foreclosed property, the Agency will credit the borrower's account in accordance with State law and guidance from the Regional OGC.

Accounts with real property security located within a federally recognized Indian Reservation will be credited according to paragraph 569.

602 Involuntary Liquidation by a Prior Lienholder

A Prior Lienholder Initiates Liquidation

If there is a prior lienholder on FSA security and the prior lienholder initiates liquidation, the authorized agency official will take the following actions unless otherwise instructed by State supplement.

- In a nonjudicial foreclosure State, the borrower's case file will remain in the authorized agency official's office. The authorized agency official should provide information on the liquidation to SED and consult with SED and OGC as needed.

***--Note:** 28 U.S.C. section 2410(c) requires that any action to foreclose a lien in favor of the United States "must seek judicial sale." This means that judicial foreclosure must be completed by the prior lien holder, even in nonjudicial foreclosure States, to eliminate the junior lien held by a Federal agency.

Example: BIG Bank finances the borrower's house. FSA finances the borrower's farm and takes a lien junior to BIG Bank on the borrower's house to meet loan closing or restructure requirements. The security is located in a nonjudicial foreclosure State. For BIG Bank to eliminate FSA's junior lien, BIG Bank must complete a judicial foreclosure.**--***

- In a judicial foreclosure State, the authorized agency official will send the borrower's case file to SED. SED receives all foreclosure and legal notices and consults with OGC as needed.

B Compiling Information on the Borrower's Account

The authorized agency official will compile information on the borrower's account and include it in the borrower's case file according to subparagraph A. For real estate security, the authorized agency official will include:

- a report on the borrower's payment of real estate taxes

- a report with information on other lienholders and judgments associated with the FSA security.

602 Involuntary Liquidation by a Prior Lienholder (Continued)

B Compiling Information on the Borrower's Account (Continued)

For personal property security, the authorized agency official will include:

- a current appraisal obtained according to 1-FLP, Part 6 at the appropriate time
- a report with information on other lienholders and judgments associated with the FSA security.

FSA will obtain a current market value appraisal according to 1-FLP, Part 6 before the sale. If the Farm Loan Chief or Farm Loan Specialist determines and documents that a potential liquidation value appraisal will be beneficial in determining FSA's bid, the appraisal order may request a potential liquidation valuation in addition to the market valuation. A potential liquidation valuation may be beneficial when all the following conditions are met:

- the property is in an economically depressed area
- the property has significant functional obsolescence, deferred maintenance, or marginal land resources
- a normal marketing effort is not possible because of brief exposure time
- consummation of the sale will be within a short period of time as established by State Law.

706 Preparing to Remove and Dispose of Personal Property From Inventory Real Property

A Preparing to Dispose of Personal Property

[7 CFR 767.52(a)] If, at the time of acquisition, personal property has been left on the inventory real property, the Agency will notify the former real estate owner and any known lienholders that the Agency will dispose of the personal property. Property of value may be sold at a public sale.

B Checking for Liens on Nonsecurity Personal Property

If the former borrower has left items of value on the inventory real property that do not customarily pass with the title to real estate and which may reasonably be expected to be under lien, the authorized agency official will check public records to identify any liens on the personal property.

C Notifying Lienholder and/or Former Borrower of Property Disposal

If there is a lien of record, the authorized agency official will notify the lienholder and the former borrower that FSA will dispose of personal property remaining on the premises unless it is removed within 7 calendar days from the date of the letter.

If there are no liens of record, the authorized agency official will notify the former borrower that FSA will dispose of all personal property remaining on the premises unless it is removed within 7 calendar days from the date of the letter.

--**FSA will notify any lienholders and the former borrower with FSA-2583. If the**-- borrower's whereabouts are unknown, FSA will post a copy of the letter on the abandoned property.

D Documenting the Borrower's Case File

The authorized agency official will document the contacts made and actions taken in the borrower's FBP.

707 Disposal of Personal Property From Inventory Real Property

A Photographing and Documenting Items Deemed to Have No Value Before Disposal

If nonsecurity personal property is not removed by the former borrower or a lienholder after FSA provides notification as outlined in paragraph 706, the authorized agency official will:

- compile a list of the items
- clearly describe and/or photograph each item
- estimate the value of each item
- indicate which items, if any, are covered by a lien.

The authorized agency official will submit the list to SED with a request for authorization to remove and dispose of the items. Upon advice from OGC, SED will provide authorization and instructions for removal and disposal of the personal property.

B Selling Personal Property at Public Sale When Net Recovery Is Likely

The authorized agency official may sell personal property at a public sale if FSA can make a net recovery.

707 Disposal of Personal Property From Inventory Real Property (Continued)

C Applying Proceeds From Sale of Personal Property

[7 CFR 767.52(c)] Proceeds from the public sale of personal property will be distributed as follows:

(1) To lienholders in order of lien priority less a pro rata share of the sale expenses;

(2) To the inventory account up to the amount of expenses incurred by the Agency in connection with the sale of personal property;

(3) To the outstanding balance on the Agency loan; and

(4) To the borrower, if the borrower's whereabouts are known.

D Personal Property Remaining After Public Sale

If personal property is not sold, FSA may pay a mover or hauler to dispose of the items. The authorized agency official will contact the State Contracting Officer for guidance on hiring a mover or hauler.

E Reclaiming Personal Property

[7 CFR 767. 52(b)] The owner or lienholder may reclaim personal property at any time prior to the property's sale or disposal by paying all expenses incurred by the Agency in connection with the personal property.

F Removing Abandoned Motor Vehicles From Inventory Property

The authorized agency official will comply with applicable State laws concerning the removal of abandoned motor vehicles from inventory property. SED will, upon advice from OGC, issue a State supplement outlining the method FSA will follow.

708 Reporting Acquisition or Abandonment of Secured Property to IRS

A Overview

Federal law requires that acquired and abandoned property, as described in subparagraph C, be reported to IRS. IRS will use this information to determine whether a tax liability has been created for the borrower through abandonment or acquisition of the property.

B Reporting Requirements

The authorized agency official shall complete FSA-2585 within 10 calendar days of the date of acquisition or the date the property was determined to be abandoned, unless liquidation will be initiated by FSA or another lender within 3 months. In that case, no report is required *--until liquidation is completed. The original (Copy A) will be sent to RD Business Center, PRB by e-mail to **RD-MOSTL-NFAOC-PRB@stl.usda.gov**. Contact information is available in 1-FLP, subparagraph 5 E. Copy B and FSA-2584 will be sent to the borrower--* when Copy A is sent to NFAOC, PRB and Copy C will be retained in the borrower's file. NFAOC, PRB will use information supplied to notify IRS.

Corrections of transactions occurring in the previous calendar year should be aggregated and filed as soon as possible but no later than October 1 of the filing year. For example, if an error was made in reporting a transaction that occurred in 2014 and was reported in February 2015, the correction must be submitted not later than October 1, 2015. The year entered on the form must be the calendar year of the abandonment or acquisition.

C Transactions That Must Be Reported

The following transactions must be reported:

- real property acquired by FSA by any means
- abandoned property when liquidation action will not be initiated within 3 months
- real property that was security for a FSA loan but was purchased by a third party at a foreclosure sale initiated by FSA or another lender
- sale or transfer of real security property.

D Redemption Rights

Any property required to be reported to IRS that is subject to redemption rights or dwelling redemption rights of the former borrower will not be reported until the end of the redemption period. This is the year that will be entered on FSA-2585.

742 Entering Into the Lease Agreement (Continued)

B Lease Terms (Continued)

[7 CFR 767.101(c)] (2) A maximum of 18 months to a beginning farmer * * * the Agency selected as purchaser when no Agency loan funds are available; or

The following language will be inserted into the special stipulation section of the lease agreement for all leases under this heading:

> "This lease will expire 18 months from the date of the inception of the lease or sooner should Farm Ownership funds become available before expiration of the lease. As soon as funds are available, the tenant will be expected to immediately furnish updated financial information if requested by the Agency. The sale will be expected to close within 30 calendar days of the date funds become available unless extended in writing by the Agency upon mutual agreement of both parties. The purchase price will be the price agreed to in the purchase agreement dated MM-DD-YYYY. In the case of the tenant being determined ineligible for Agency financing or being unable to present a feasible plan of operation at the time the funds become available, this lease agreement will be null and void. Any growing crops will be allowed to be removed at the normal harvest time. Any lease installments remaining to be paid for that crop year will need to be paid in full before removal of any crop. The tenant is required, as part of the lease agreement, to provide a first lien position on all crops growing or to be grown on this land equal to the amount of the rent due for the term of the lease."

[7 CFR 767.101(c)] (3) The shortest possible duration for all other cases subject to the following:

(i) The maximum lease term for such a lease is 12 months.

(ii) The lease is not subject to renewal or extension.

FSA may not lease inventory property because of lengthy litigation and appeals for more than 12 months. These leases are not subject to renewal and extension. The authorized agency official must re-advertise property for lease to the general public because of lengthy litigations and appeals when a lease term ends.

When a lease term ends for a beginning farmer *** * ***, the authorized agency official must proceed according to Part 21.

742 Entering Into the Lease Agreement (Continued)

C Purchase Options

[7 CFR 767.101(g)] Only leases to a beginning farmer * * * or Homestead Protection Program participant will contain an option to purchase the property.

FSA does not extend purchase options to a lessee who is not a beginning farmer or a Homestead Protection Program participant.

Terms of this option are included in the special stipulation section of the lease. The lease payments are not applied toward the purchase price. The purchase price is the advertised sales price as determined by an appraisal.

When a lease with an option to purchase is signed, FSA advises the lessee in writing that FSA may not be in a position to finance the purchase of the property because of lack of funding.

D Security Deposit

[7 CFR 767.101(f)] The Agency may require the lessee to provide a security deposit.

The amount of any security deposit will be determined by considering only the improvements or facilities that might be subject to misuse or abuse during the term of the lease. The amount of any required security deposit will be included in any advertisement of the property for lease.

--Security deposits will be remitted according to 3-FI and held by RD Business Center, FLB-- until the authorized agency official makes the determination to return or otherwise dispose of the security deposit.

--RD Business Center, FLB will be requested by memorandum to return the deposit to the-- servicing office for delivery to the lessee; or, if the deposit is to be retained by FSA, to apply it to the borrower's account (for custodial property) or to the inventory account, as appropriate after all appeal rights are exhausted.

742 Entering Into the Lease Agreement (Continued)

E Lease Termination

The lease may be terminated by either party upon 30 calendar day's written notice to the other party at that party's address set forth in the lease. If the property is sold subject to the lease, the new owner may terminate the lease by giving 30 calendar days notice to the lessee in the same manner, but in any event, the lessee shall retain the right to harvest any existing crops.

When a lease is terminated or when the property is sold before the expiration of the lease *--term, the authorized agency official notifies RD Business Center, FLB of the termination--* and the effective date of the termination.

The lessee may appeal this termination according to 1-APP. During the period of any appeal, the tenant will still be responsible for payment of any accumulating lease payments according to the terms of the lease that was in force before the termination.

F Acceptable Forms of Lease Payment

[7 CFR 767.101(d)] The lessee may pay:

(1) A lump sum;

(2) On an annual installment basis; or

(3) On a crop-share basis, if the lessee is a beginning farmer under paragraph (a) of this section.

FSA prefers lump-sum or annual installment payment methods, but may approve a farm lease on a crop-share basis for a beginning farmer if it is the customary practice in the area.

For a crop-share lease, FSA must stipulate the lease amount and terms in the special stipulations section of the lease. In this case, the lessee markets the crops, provides FSA with documented evidence of crop income, and pays FSA the pro-rata share of the income. The authorized agency official is responsible for ensuring that FSA properly accounts for crops and for collecting the lease payments.

FSA applies the proceeds from inventory property leases to the lease account.

743 FSA Procedures for Leasing Inventory Real Property

A Preparing the Lease Agreement

The authorized agency official uses FSA-2591 or another form approved by OGC to lease property.

B Establishing a Lease Account

--On receipt of an inventory property lease, RD Business Center, FLB establishes a lease-- account in the lessee's name. In servicing the lease account, the authorized agency official may establish or remove a suspend code from a lease record by completing FSA-2587 according to the instructions.

C Management of Leased Inventory Property

[7 CFR 767.103] (a) The Agency will pay for repairs to leased real estate inventory property only when necessary to protect the Agency's interest.

(b) If the lessee purchases the real estate inventory property, the Agency will not credit lease payments to the purchase price of the property.

Generally, FSA pays only for repairs, such as replacing broken fixtures or repairing a leaking roof. FSA does not pay operating costs associated with leased inventory property.

When necessary, FSA may use management services, in addition to a lease to fully protect FSA's interest in a property. In all cases, the authorized agency official makes a determination of what types of services are needed and obtains prior written approval from SED.

744 Leasing Other Types of Properties

A Lease of Inventory Nonreal Estate Property

[7 CFR 767.102] The Agency does not lease non-real estate property unless it is attached as a fixture to inventory real property that is being leased and it is essential to the farming operation.

B Lease of Custodial Property

If FSA cannot acquire title to custodial property in a timely manner, the authorized agency official may lease the property upon concurrence from the National Office.

745-775 (Reserved)

781 Advertising Property

A Authority

When FSA sells property in a manner that requires FSA to advertise the property, the authorized agency official is responsible for ensuring adequate advertising to achieve a timely sale.

B General Requirements

The authorized agency official must ensure that all advertising meets these general requirements.

- The advertisement must describe the property being sold. Real property must have a legal description unless a lengthy legal description is cost prohibitive. Then a general legal description will suffice provided purchasers can understand where the property is *--located. The advertisement must then disclose that the actual legal description is available.

- *--The advertisement must be publicly distributed using at least 2 different widely circulated methods in the area where the potential purchasers will reside, such as newspapers, GovDelivery, online marketplaces, community bulletin boards, and print media.--*

* * *

- The advertisement must run at least once per week for 2 successive weeks.

- The advertisement for real property must describe any use restrictions or easements on the property.

- The advertisement must include a statement that the property is being sold "as is."

- The advertisement must state that the Government reserves the right to cancel the sale at any time during the sale process and also reserves the right to reject any or all applications or bids.

- The advertisement may list the market value of the property or a minimum acceptable price.

- *--The advertisement will indicate whether FSA financing is available to purchase the property. The advertisement will also indicate where to obtain an application or submit a bid, how to receive more information, and the deadline for submitting applications or bids.

781 Advertising Property (Continued)

B General Requirements (Continued)

The authorized agency official must use other appropriate forms of advertising to maximize *--publicity, including posting FSA-2589. The authorized agency official posts these--* advertisements in the local Field Office, adjoining Field Offices, the Farms for Sale Web Site, and other appropriate locations as necessary to ensure that the sale receives adequate exposure to the market.

C Advertising and Selling to Beginning and Socially Disadvantaged Farmers

All inventory property will continue to be advertised for sale to beginning and socially disadvantaged farmers unless it meets the criteria identified in subparagraph 776 A. Advertising must meet the general advertising requirements in subparagraph B and additionally must state:

- that beginning farmers may lease the property for up to 18 months if FSA loan funds are not available at the time of the scheduled sale
- that the lease of property may be subject to environmental use restrictions
- where to obtain an application, how to receive more information, and the deadline for submitting applications
- the market value of the property.

The initial paragraph in the advertisement must state the following:

> "The property is being offered for sale to those individuals whom the Farm Service Agency (FSA) considers qualified beginning and/or socially disadvantaged farmers or ranchers. Qualified beginning and socially disadvantaged farmers or ranchers must be in need of FSA credit assistance either in the form of direct FSA financing or an FSA guaranteed loan. For other requirements and information on how to qualify as a beginning and/or socially disadvantaged farmer or rancher, you may contact your local FSA office."

Priority consideration will be given to beginning farmers and/or socially disadvantaged farmers.

784 Real Property Securing FSA Credit Located in a Federally Recognized Indian Reservation

A General Requirements

This paragraph applies under the following conditions.

- The real property securing FSA credit is located within the boundaries of a Federally recognized Indian reservation.

- The borrower is a member of the tribe that has jurisdiction over the reservation.

FSA handles real property located within an Indian reservation formerly owned by nontribal entities or nontribal members as regular inventory property and **not** according to this paragraph.

B Notifying the Tribe

Not later than 90 calendar days after acquiring the inventory property, FSA notifies the *--Indian tribe that has jurisdiction over the reservation by FSA-2568 of the opportunity to--* purchase the property or enter into a lease not to exceed 5 years with the option to purchase at the end of the lease term. FSA sells or leases inventory property in an established priority order to:

- a member of the Indian tribe that has jurisdiction over the reservation
- an Indian corporate entity
- the Indian tribe.

The Indian tribe that has jurisdiction over the reservation may revise the priority order and may restrict the buyer eligibility and opportunity within this list.

C Failure to Sell the Property

If FSA is unable to sell or lease the property according to subparagraph B, then SED will transfer the property to the Secretary of the Interior. SED, in consultation with OGC, may develop a process and operating guidelines for transferring property to the Secretary of the Interior. FSA protects any important resources on the property according to Part 22.

785-800 (Reserved)

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

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FSA-2026	Promissory Note		Text
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FSA-2092	Notice of Application Withdrawal (Not for Loan Making, PLS, Transfer and Assumption, Subordination, and Debt Settlement Applications, or Operational and Graduation Reviews)		10

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

Forms (Continued)

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FSA-2512	Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less Than 90 Days Past Due		3, 67, 68, 85, 102
FSA-2514	Notice of Availability of Loan Servicing to Borrowers Who Are in Non-Monetary Default		3, 67, 68, 83, 85, 444, 702
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FSA-2517	Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 172
FSA-2518	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 172
FSA-2519	Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116
FSA-2520	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116
FSA-2521	Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 229, 322
FSA-2522	Borrower Response to Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 229, 322

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

Forms (Continued)

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FSA-2525	Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing		85, 343, 344
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FSA-2547	Notice of Shared Appreciation Payment Agreement Delinquency		67
FSA-2548	2nd Notice of Shared Appreciation Payment Agreement Delinquency		67
*--FSA-2549	Letter To Borrowers Who Received Unauthorized Assistance – Final Determination		387--*

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2550	Report of Problem Case		421, 533
FSA-2551	Request for Non-monetary Default Determination		65, 421
*--FSA-2552	Notice of Acceleration of Your Debt (Non-Program) to The Farm Service Agency (FSA) and Demand for Payment of that Debt		444
FSA-2553	Notice of Acceleration of Your Farm Service Agency (FSA) Account (Non- Program		444
FSA-2555	Notice of Acceleration of Farm Loan Programs Accounts that are Unsecured		531, 534
FSA-2556	Notice of Acceleration of Farm Loan Programs Accounts Secured by Real Estate and/or Personal Property in Cases NOT Involving Bankruptcy		531, 534
FSA-2557	Notice of Intent to Foreclose on Your Property Serving as Security for the United States of America and Acceleration of Your Loan Accounts After Chapter 7 Discharge		531, 534
FSA-2558	Notice of Acceleration of Your Debt To The Farm Service Agency Based on Confirmed Bankruptcy Plan With Discharge and Demand for Payment of that Debt		531, 534
FSA-2559	Notice of Acceleration for FLP Accounts Held by American Indian Borrowers and Secured By Real Estate Located Within A Recognized Indian Reservation, Demand For Payment, And Notice Of Additional Borrower Rights Prior To Foreclosure		537--*
FSA-2560	Request for Statement of Account		536
FSA-2561	Statement of Account		536
FSA-2562	Borrower Account Description Flag		67, 248, 401, 421, 534, 567, Ex. 11
*--FSA-2563	Information On American Indian Borrower Rights Under The Consolidated Farm and Rural Development Act		537--*

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

Forms (Continued)

Number	Title	Display Reference	Reference
*--FSA-2564	Notification Of Options Available To The Tribe Concerning Existing Farm Service Agency Loan		537
FSA-2565	Notification To A Tribe Of An American Indian Borrower's Request To Have A Farm Service Agency Loan Assigned To The Tribe		537
FSA-2566	Notification To An American Indian Borrower Of Acceptance Of A Farm Loan Assignment Request		537
FSA-2567	Notification To An American Indian Borrower of Farm Loan Assignment Request Denial		537
FSA-2568	Notification Of Options Available to The Tribe		784--*
FSA-2569	Warranty Deed		496-499
FSA-2570	Offer to Convey Security		284, 496, 497, 499, 500, 516, 517
FSA-2571	Agreement for Voluntary Liquidation of Personal Property		464, 465, 516, 518, 581
FSA-2572	Agreement of Secured Parties to Sale of Security Property		581
*--FSA-2573	Notice To Borrower's Attorney Regarding Loan Servicing Options		401, 402, 405, 407--*
FSA-2574	Confirmation Reorganization Plan Worksheet		404, 405, 406
FSA-2576	Notice of Judgment		551, 567, 568, 582, 604
FSA-2580	Primary Loan Servicing and Preacquisition Homestead Protection Checklist		67, 533
--*FSA-2577	Notice To Borrowers Who Did Not Reaffirm FSA's Debt Prior To Receiving A Chapter 7 Discharge		407
FSA-2578	Notice To Borrowers Who Are 90 Days Past Due Or In Non-Monetary Default Who Did Not Reaffirm FSA's Debt Prior To Receiving Chapter 7 Discharge		407--*
FSA-2581	Inequitable Treatment Review Data		533

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2585	Acquisition or Abandonment of Secured Property		708, Ex. 66
*--FSA-2583	Notification Of Personal Property Found		706
FSA-2584	Notification Of Transmittal to The Internal Revenue Service (IRS)		708--*
FSA-2586	Acquisition and Inventory Property Checklist		721
FSA-2587	Advice of Property Acquired		568, 743
FSA-2588	Acquired Property Maintenance		568
*--FSA-2589	Notice of Sale		781--*
FSA-2591	Lease of Real Property		281, 284, 568, 743
FSA-2592	Invitation, Bid and Acceptance Sale of Real Property by the United States		776, 778, 782
FSA-2593	Standard Sales Contract Sale of Real Property by the United States		778
*--FSA-2592	Invitation, Bid and Acceptance Sale of Real Property by the United States		776, 778, 782
FSA-2593	Standard Sales Contract Sale of Real Property by the United States		778--*
FSA-2594	Advice of Inventory Property Sold		778
FSA-2595	Quitclaim Deed		778
FSA-2596	Bill of Sale "A" (Sale of Government Property)		780
FSA-2597	Farmer Programs Noncash Credit for Purchase of Easement Rights		197
FSA-2716	Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement		Ex. 48
FSA-2717	Notice Advising of Potential Referral to Treasury for Cross-Servicing		Ex. 48
FSA-2731	Cancellation of Debt Without Application		406, 407
FSA-2732	Debt Settlement Application		82
NRCS-CPA-026 NRCS-CPA-026e	Highly Erodible Land and Wetland Conservation Determination		81, 801
SF-750	Claims Collection Litigation Report (CCLR)		403

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
ACL	Accelerated	534, Ex. 11
ADMP	Agency Debt Management Portal	Ex. 58
BAP	Bankruptcy Action Pending	42, 401, Ex. 11
CAP	Court Action Pending	421, Ex. 11
CCLR	Claims Collection Litigation Report	403, Ex. 58
CL	Conservation Loan	41, 131, 145, Ex. 2, 17
CONACT	Consolidated Farm and Rural Development Act	1, 193, 537, Ex. 2
DBSA	Distressed Borrower Set-Aside	Text
DEF	Deferral	248, Ex. 11
eDALR$	electronic Debt and Loan Restructuring System	Text, Ex. 17
FAP	Foreclosure Action Pending	567, Ex. 11
FLB	Farm Loan Branch	Text
FLMAC	Farm Land Market Advisory Committee	Ex. 17
ISA	installment set-aside	46, 48, 131
ITLAP	Indian Tribal Land Acquisition Program	2, 537
LR	limited resource	132, 146
NP	nonprogram loan	Text
NRBRA	Net Recovery Buyout Recapture Agreement	321, 361, 363, 365
NRV	net recovery value	102, 321, 462
PACER	Public Access to Court Electronic Records	403
PLS	primary loan servicing	67, 68, 401, Ex. 11
POC	proof of claim	401, 403
PRB	Program Reports Branch	708
* * *	* * *	* * *
SA	shared appreciation loan	66, 67, 102, 145, 146, 191, 346

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

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
SAA	shared appreciation agreement **Note:** When reference is made to a signed agreement as a condition of receiving debt write-down.	67, 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 FSA-2732.	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	533, Ex. 47
ST	softwood timber loan	41
TOA	type of assistance	131
TPJ	third party judgment	421, Ex. 11
TROR	Treasury's Report on Receivables	441
YL	youth loan	41, 42, 68, 132

Redelegations of Authority

SED may redelegate to FLC authority to approve PLS when a borrower:

- has received PLS at least 2 times in the previous 5 years
- is receiving a second or subsequent consecutive restructure with a deferral
- has run out of loan numbers and has started reusing previous loan numbers.

SED may redelegate to FLC, FLS, and/or DD the authority to waive real estate and/or non-essential asset appraisals for current market value buyout when the personal property appraisal shows that personal property security value exceeds the debt, and security has been cross-collateralized.

SED may redelegate to FLC or DD the authority to approve an exception to approve acceleration of an account in bankruptcy under subparagraphs 534 C and 537 A.

State Supplements

The following table lists required State supplements.

Subparagraph	Required State Supplement
104 A	Obtaining PLS Appraisals
196 B	Filing of Conservation Contracts
229 A	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 G	State Policies and Procedures for Bankruptcy
405 C	De-acceleration after payment according to State law
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 E	Determination or 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	Calculating FSA's Bid
568 A	Acquisition of Inventory Property
551 D	Calculating Amount To Be Reported to DOJ
601 A	Third-Party Foreclosures
601 C	Contract Forfeiture
602 A	Prior Lienholder Liquidation
604 D	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	• Estimated Cost and Average Holding Period • Factors to Use When Adjusting Market Value.
Exhibit 60, Page 1	***--**Holding Period of Less Than 165 Days (.45 years; 5.5 months).**--*** Redemption Period Established Under State Law.

Judicial Foreclosure Best Practices

A Judicial Foreclosure States

The following table provides a list of judicial foreclosure States and whether or not they have a DOJ private counsel contract.

State	DOJ Private Counsel Contract
Connecticut	No
Delaware	No
Florida	Yes
Illinois	No
Indiana	No
Iowa	Yes
Kansas	No
Kentucky	No
Louisiana	No
Maine	No
New Jersey	Yes
New Mexico	No
New York	Yes
North Dakota	No
Pennsylvania	Yes
Puerto Rico	Yes
Ohio	No
South Carolina	Yes
Wisconsin	No

* * *

A DOJ private counsel contract is a contract issued and managed by DOJ replacing US Attorney's Office foreclosure attorneys with private counsel.

Judicial Foreclosure Best Practices (Continued)

A Judicial Foreclosure States (Continued)

***--Note:** Non-judicial foreclosure States may also have provisions for judicial foreclosure when a mortgage or deed of trust does not include a "power of sale" clause that gives the lender the right to foreclose on property itself. But judicial foreclosure in non-judicial foreclosure States is not the norm.

28 U.S.C. section 2410(c) requires that any action to foreclose a lien in favor of the United States "must seek judicial sale." This means that judicial foreclosure must be completed by the prior lien holder, even in nonjudicial foreclosure States, to eliminate the junior lien held by a Federal agency.

Example: FSA takes a first lien on real estate. After the loan closes, SBA obtains a junior lien on the property. The security is located in a nonjudicial foreclosure State. To eliminate SBA's junior lien, FSA must complete a judicial foreclosure.

If FSA must foreclose on a lien held by another federal agency in a nonjudicial foreclosure state, the SED should seek regional OGC assistance in making the referral to the U.S. Attorney's Office for judicial foreclosure.**--***

Judicial Foreclosure Best Practices (Continued)

B Steps in Making a Judicial Foreclosure Referral

FSA should proceed according to 5-FLP, Part 16 and any state supplement before making a judicial foreclosure referral.

A judicial foreclosure is a legal process that liquidates collateral through a judicial sale and provides marketable title to the successful bidder at the judicial sale. The foreclosure will extinguish the property interests or rights of borrowers and junior lienholders so that the buyer is able to obtain clean title. To be able to provide marketable title in the foreclosure sale, the foreclosure complaint must identify all interests that are to be extinguished at the foreclosure sale.

Note: Rights and interests that are not identified in the complaint will not be extinguished. Failure to extinguish interests will result in encumbrances remaining on the title, which could prevent a foreclosure sale from occurring, lessen any recoveries FSA may realize, or cause a court to set aside (undo) a sale.

Successfully conducting a foreclosure requires a good referral. Good referrals require taking the following steps:

Step 1. FSA must prepare and package all documents that affect the real estate or personal property to be foreclosed upon. These would include but are not limited to:

- all promissory notes that must include not just the initial loan, but promissory notes for all actions requiring a promissory note
- all assumption agreements
- all shared appreciation agreements
- all subordinations; subordination, non-disturbance, and attornment agreements (SNDA's); agreements with prior lienholders; and similar documents
- all FSA mortgages, deeds of trust, fixture filings, or other instruments or documents recorded or filed in the real property records
- information about any leases that FSA has approved
- documentation showing the outstanding principal, accrued interest, and daily interest accrual on each loan and advance
- all acceleration letters and servicing notices that led to the acceleration

Judicial Foreclosure Best Practices (Continued)

B Steps in Making a Judicial Foreclosure Referral (Continued)

- if the foreclosure or legal action will include personal property, all security agreements, agreements for use of proceeds, UCC filings, and continuations
- if the foreclosure or legal action will include personal property, FSA-2360 Report of Lien Search
- confirmation whether any of the borrowers are deceased
- confirmation whether any of the borrowers are in bankruptcy or previously received a discharge in bankruptcy while an FSA borrower
- confirmation whether the property is occupied or vacant
- in States that have mandatory mediation requirements before foreclosure, confirmation that any mandatory mediation requirement has been completed
- other documentation or information as directed by regional OGC.

Note: When FSA has taken servicing actions such as rescheduling, consolidation, or reamortization, it may not be clear from looking at the original mortgage or deed of trust what promissory notes are secured by what mortgage or deed of trust. In these cases, FSA should prepare a description, chart, or outline that shows which notes or agreements are secured by each mortgage or deed of trust. Additionally, the documentation should clearly link any reschedulings, consolidations, re-amortizations, or other action requiring promissory note to the original note. The documentation should also show which note each advance was made for.

Step 2. Order a title report.

For foreclosures that include personal property, FSA should prepare FSA-2360.

The title report for real estate will show the owners of the property and any interests, rights, or encumbrances that attach to the real estate, including those that should be extinguished at the foreclosure sale. Generally, FSA will want to cause all of FSA's interests, all other liens, and the rights of all owners of the property to be extinguished at the foreclosure sale. FSA may also want to cause any lessee to be evicted after the foreclosure sale. Under State law, operator lessees can usually only be evicted after harvest. Not all interests can or should be extinguished though. For example, easements and rights-of-way usually are not extinguished.

A title report may alternatively be called a title opinion, foreclosure report, status report, title status report, litigation guarantee, or something similar. To be useful, the report that is obtained must show any and all interests, rights, or encumbrances in the real property, court, and fixture filing records. FSA should obtain the title report before making any referral.

Judicial Foreclosure Best Practices (Continued)

B Steps in Making a Judicial Foreclosure Referral (Continued)

The title report must be recent so that it correctly identifies all interests. Given the period of time between the title report and foreclosure, a title report may also need to be updated before any foreclosure is initiated. FSA should work with regional OGC to determine the correct timing for ordering a title report and determining whether regional OGC requires a title report or will allow FSA-2360 Report of Lien Search to also be used for real property at this stage of the referral.

Note: FSA generally will not be able to extinguish outstanding property taxes and tax liens by judicial foreclosure. In addition, some State laws allow certain types of liens to survive a judicial foreclosure, even if those liens were recorded after FSA's lien. City liens, homeowners' association liens, and mechanic or construction liens are some examples. FSA may make advances to pay protective advances according to 4-FLP, Part 6 and the advances can also be part of the foreclosure. When protective advances are not made, the property may be sold at foreclosure subject to any outstanding taxes, tax liens, or other priority liens.

Step 3. Prepare a Certificate of Indebtedness (COI) (Exhibit 33).

FSA must prepare a COI to include when obtaining OGC concurrence and in any referral to DOJ.

Step 4. Obtain regional OGC concurrence before referring a foreclosure to DOJ.

Regional OGC should review the foreclosure and referral materials before FSA makes a referral to DOJ. State Offices should work with regional OGC to develop best practices including coordination between FSA and OGC for foreclosure referrals.

Step 5. Prepare a complaint.

A complaint is the legal filing that begins a foreclosure lawsuit. The complaint usually must contain information about certain items including:

- the names of all defendants whose interests in the real estate are to be extinguished that includes the title owners (usually including both spouses) and lienholders

  Note: This may also include lessees when appropriate.

- each FSA mortgage, deed of trust, fixture filing, or other recorded instrument being foreclosed
- the identity of each FSA promissory note, assumption agreement, advance made, etc. and which mortgage, deed of trust, or fixture filing secures the debt

Judicial Foreclosure Best Practices (Continued)

B Steps in Making a Judicial Foreclosure Referral (Continued)

- the total and itemized amount of debt (principal, accrued interest, fees) on each account and the daily interest accrual as of the date of the COI

- a description of the order of payment for sale proceeds with any costs of the sale or foreclosure being first, followed by advances, accrued and accruing interest, and principal to FSA accounts in order of priority

- whether FSA will take a deficiency judgment and a request that the deficiency accrue interest at the judgment rate

  Note: Deficiency judgments are generally sought based on the recommendation in 5-FLP, subparagraph 533 F unless the borrower has been discharged in bankruptcy or the complaint is brought out of time under the Statute of Limitations.

- a description of the junior interests of each defendant to be extinguished*

- a description of the owner's redemption rights, to the extent they exist

- redacted copies of the FSA documents to be filed with the complaint as exhibits

- other information that may be required by State law, DOJ, or regional OGC

- a request for relief including a foreclosure sale and distribution of sale proceeds, and as necessary, a deficiency judgment, authority to evict, or other requests that may be appropriate for the particular foreclosure as determined by regional OGC

- a notice of lis pendens, where applicable.**

* FSA generally cannot extinguish the rights of prior lienholders absent the prior lienholder's consent. When a prior lienholder is named as a defendant and consents to its lien being disturbed, it will receive proceeds of the foreclosure sale before FSA. If the prior lienholder is not named as a defendant or does not consent to its lien being disturbed, the sale is conducted subject to its lien. In those cases, the prior lien will continue on the property, even after the foreclosure sale.

The name and function of a notice of lis pendens may vary by State. It is usually a separate document which may be filed in either the court or real estate records, depending on State law. It will generally put a cloud on the title which serves to deter third-parties from taking any interest in the real property (a sale of the property or lending and taking a consensual lien) while a lawsuit that may affect the title is pending. FSA should consult with regional OGC whether the use of lis pendens is appropriate.--***

Judicial Foreclosure Best Practices (Continued)

B Steps in Making a Judicial Foreclosure Referral (Continued)

FSA should consult with regional OGC whether a draft complaint should be prepared, and if so, the best method for preparing the complaint.

Notes: In States where DOJ is not using private counsel, a draft complaint and notice of lis pendens may be prepared by regional OGC, FSA using templates provided by regional OGC, or by DOJ. If the draft complaint and notice of lis pendens is prepared by OGC or FSA, those documents and the exhibits should accompany the referral to DOJ.

In States where DOJ is using private counsel, private counsel will usually prepare the complaint.

Step 6. Pause any offsets.

All offsets must be paused before the referral is made to DOJ. Consult with regional OGC regarding whether offset should be paused when the earlier referral is made to OGC. After any pause, the State Offices may wish to consult with regional OGC to determine whether it can hold or offset any anticipated program payments.

Step 7. Refer foreclosure to DOJ.

After receiving concurrence from OGC, FSA may refer the foreclosure to DOJ. State Offices should work with regional OGC to determine whether the referral to DOJ should be made by FSA or OGC. State Offices should also consult with regional OGC to determine whether the referral should be made only through DOJ's Agency Debt Management Portal (ADMP) or through ADMP and directly to the United States Attorney's Office.

The referral packet should include:

- a Claims Collection Litigation Report (CCLR) completed in ADMP*
- a COI to be uploaded into ADMP
- a foreclosure complaint (if prepared by FSA or OGC)
- either all exhibits for the complaint or all documents prepared and packaged in Step 1
- a notice of lis pendens (as determined by regional OGC)
- a copy of the title report
- other documents as directed by regional OGC or DOJ.

* When the referral is for debt with a total principal balance of $1,000,000 or greater, the CCLR will be completed as a PDF. See Exhibit 46 Subparagraph C for details.

Judicial Foreclosure Best Practices (Continued)

B Steps in Making a Judicial Foreclosure Referral (Continued)

C Use of DOJ's Agency Debt Management Portal (ADMP)

SED will consult with regional OGC regarding FSA use of DOJ's ADMP. ADMP may be used by FSA only with OGC consent. Contact LSPMD for guidance on obtaining access to ADMP.

DOJ requires the use of a Claims Collection Litigation Report (CCLR) and a COI when an agency is referring an account for foreclosure for claims that have a principal balance of below $1,000,000. These forms are now submitted within ADMP. For debts with a principal balance of $1,000,000 or greater, the referral, COI, and PDF CCLR must be submitted by e-mail to CCLR.Submission@usdoj.gov. To protect PII, all information must be encrypted before sending, using the instructions located at https://www.justice.gov/jmd/file/789256/dl?inline.

Current versions of the CCLR and instructions are found at DOJ's Justice Management Division Debt Collection Management Staff website located at https://www.justice.gov/jmd/debt-collection-management-staff

Note: ADMP and CCLR are also used for other types of referrals that are not used in foreclosures. FSA should not request a Collectability Assessment Inquiry when submitting a foreclosure referral. FSA must not request DOJ concurrence for compromise, suspension, or termination when making a foreclosure referral.

D FSA Use of Private Attorneys

In certain circumstances, FSA may determine it wishes to contract with private sector attorneys for foreclosures. The authority to hire private sector attorneys is not delegated to SED.

Any requests about the use of private sector attorneys must be directed to the FSA FLP National Office.