

For: County Offices

Collection Activities after Guaranteed Final Loss Claim Paid

Approved by: State Executive Director

Acting:



1 Overview

A Background

This Notice replaces MO NOTICE FLP-330 (2-FLP) dated May 17, 2006, which expired June 1, 2007.

B Purpose

The purpose of this Notice is to emphasize 2-FLP Handbook, Par. 362A, Future Recovery, and to establish a reporting system.

C Contact

Any questions concerning this Notice should be directed to the Farm Loan Programs Section in the State Office.

D Filing Instructions

A copy of this Notice should be filed preceding 2-FLP Handbook.

2 Implementation

The payment of a guaranteed loss claim to the lender does not release the borrower(s) from liability. The guaranteed borrower(s) still owes the lender all of the (100% - guaranteed and unguaranteed) principal and interest debt owed on the promissory note prior to the guaranteed loss claim being paid. This debt is owed to the lender until:

Disposal Date July 1, 2009	Distribution Farm Loan Teams, County Offices, AFLSs, DDs, CORs
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MO Notice FLP-397

- a. The lender and FSA (SED written approval) concur in a debt settlement action satisfying the borrower's account,

OR

- b. A notice of bankruptcy "Discharge of Debt" is received.

2-FLP Handbook, Par. 362A, Future Recovery, requires the Farm Loan Manager/Officer to follow-up with the lender for three (3) years after a guaranteed final loss claim has been paid. Therefore, a date must be established in MAC for the yearly contact.

After a loss claim is paid, the lender is to be notified, in writing, of their servicing responsibilities. As a minimum, the lender should be doing the following servicing actions on the borrower's account:

- a. The lender should request from the borrower(s) an annual financial statement and, if possible, should also try to obtain a complete copy of the borrower(s) yearly federal and state income tax records with all supporting schedules.
- b. The lender should complete an analysis of the information to determine if the borrower(s) have repayment ability and/or assets from which recovery could be made. If collection efforts appear to be cost effective, then the lender needs to pursue collection.
- c. The lender should provide a copy of the above information to the local FSA servicing official.

3 Annual Servicing Requirements

Lenders that received a guaranteed loss payment will be requested to complete and return a report to the Agency on its collection activities for 3 fiscal years. The local FSA servicing official is required do the following:

- a. On October 31st of each year, the lender will be sent the mo 2-flp25, Loss Claim Future Recovery letter. See Exhibit 1. This letter is located on the State Office FLP website.
- b. If necessary, a follow up with the lender will be made to ensure that FSA-1980-26 is completed and returned to the Agency by November 30th.
- c. The information needs to be thoroughly reviewed and the FSA servicing official should be in agreement with the lender's analysis of the borrower(s) financial position. Is recovery possible if collection efforts were implemented by the lender?
- d. The FSA-1980-26's will be forwarded to the Farm Loan Programs section of the State Office by December 15th.

4 Loss Claim Collections

The lender will submit any recoveries made on the account after the Agency's payment of a final loss claim to the Agency in proportion to the percentage of guaranteed in accordance with the Loan Guarantees. FSA usually receives 90% (guaranteed percentage) and the bank 10% (non-guaranteed percentage) after all authorized collection expenses are deducted from the loss claim recovery.

Any recoveries paid to FSA should be processed with a collection code of '33'. A copy of the CCC-257 and the portion of the Detail Report dealing with the loss claim collection along with RD 449-30, *Loan Note Guarantee Report of Loss*, which is to be signed only by the lender, will be submitted to the State Office for signature and approval by the SED.

5 Federal Debt – Treasury Offset Program (TOP)

All guaranteed loan applications must be filed with most current revision of the form FSA-1980-25 (SEL & CLP) or FSA-1980-28 (PLP). Currently the guaranteed loan application forms have a revision date of 03-22-2004.

Any guaranteed loss claim payment paid on a guaranteed loan closed under an application revision date of 7/20/01 or later will constitute a Federal Debt owed to FSA by the guaranteed loan borrower. In such cases, FSA may use all remedies available, including offset under the Debt Collection Improvement Act, to collect debt from the borrower. Treasury, after a final loss claim is paid and proper notification, will withhold payments due delinquent debtors by administrative, salary, and tax refund offset.

However, any guaranteed loss claim payment paid for guaranteed loans closed under an application with a revision date prior to 7/20/01 are not considered to be a federal debt.

6 Debt Settlement / Release of Liability – SED Approval

If the revision date of the FSA-1980-25 or FSA-1980-28 is before 7/20/2001, a lender with FSA SED written concurrence may release a borrower or cosigner from liability. Follow 2-FLP Handbook, Par. 361, Release of Liability After Liquidation 7 CFR 762.146(c) in determining if adequate compensation is received or it is mutually agreed that there is very little probability of future recovery considering income, possible inheritance, disposition of collateral, and the existence of other assets.

If the revision date of the FSA-1980-25 or FSA-1980-28 is 7/20/2001 or later, debt settlement/release of liability requests require DAFLP approval and must take into consideration and address the amount that potentially could be collected from federal offset.

7 File Retention

Retain all guaranteed loan documents until further notice. Disregard all references in 25-AS and other regulations relating to the destruction of guaranteed loan records.

mo 2-flp25 loss claim future recovery 04-17-00
See Par. 362 A

(date)

(name and address)

Dear Lender:

Farm Service Agency's (FSA) records indicate that your lending institution has received a final loss claim payment on one or more unsatisfied liquidated guaranteed accounts. To assure compliance with the future recovery provisions of the Lender's Agreement, FSA regulations require these accounts to be monitored and collection activities continued for a 3-year period following the fiscal year (October 1 through September 30) in which the final loss claim was paid.

You will find enclosed form FSA-1980-26, "Report on Collection Activities on Liquidated Accounts," which must be completed for the indicated borrowers accounts for which a final loss claim was processed and the account remains unsatisfied. You must mail the completed report to (enter respective FSA servicing official) by November 30.

Sincerely,

[v]
Farm Loan Manager

Enclosure: Form FSA-1980-26, "Report on Collection Activities on Liquidated Accounts"