

**Part 12 Servicing Distressed Accounts (Delinquent Loans)**

**Section 1 General Process for Restructuring Guaranteed Loans**

**300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143)**

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**A  
Default and  
Servicing  
Distressed Loans**

**A borrower is in default when they are 30 days past due on a payment or in violation of provisions of the loan documents.**

When a default occurs, the lender is expected to work with the borrower so that the loan can be brought current and the borrower can continue the farming or ranching operation. Prompt follow-up on delinquent payments, early recognition of loan problems, and prudent use of restructuring tools are keys to resolving many delinquent loans. The lender has an assortment of restructuring tools that may be used to bring the loan current. These include:

- rescheduling
- deferral
- debt writedown
- \*--IA, if eligible.--\*

The following table represents the time line for servicing distressed loans and the required lender actions for restructuring guaranteed loans.

<b>Distressed Loan Servicing Time Line (Monetary Default)</b>	
<b>Payment Due Date</b>	Payment Missed
<b>30 Days After Due Date</b>	Borrower in Default
<b>Within 45 Days After Due Date</b>	Meeting Between Borrower and Lender
<b>60 Days After IA Determination</b>	Earliest Date that Lender Can Initiate Foreclosure Action
<b>Within 120 Days After Due Date</b>	Loan Restructuring Plan Implemented or Decision to Liquidate Made

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**B****Loan Past Due**

Default occurs on the loan immediately upon failure to make a scheduled installment on the day it is due. However, many lenders provide for a 30-calendar-day grace period before a notice of default is mailed or other actions are taken. To comply with this standard, FSA has established 30 calendar days after the payment due date as the maximum allowed before a loan must be declared in default. No direct action, other than monitoring of the situation, is required before this date. However, a lender does not have to wait until the loan is 30 calendar days past due before taking action. For example, perishable security, such as produce, or instances of maltreated livestock may dictate a quicker response to default than 30 calendar days.

**If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted in accordance with § 762.145 of this part and Section 2 prior to the payment coming due.**

If through their involvement with an FSA direct loan, or in any manner, the Authorized Agency Official becomes aware that a guaranteed borrower is in default or likely to default on their loan, they should communicate their concerns to the lender. If the loan payment was due but not paid over 30 calendar days ago, and no reports have been received from the lender, the Authorized Agency Official will contact the lender to request a status report and remind them that they must work with the borrower and take timely action to correct delinquencies or liquidate the loan. Failure to address default in a prudent and timely fashion may result in a reduction or rejection of a lender's request for a loss claim, should one result. A loss claim may be reduced by the amount caused by the lender's failure to secure property after a default, and will be reduced by the amount of interest that accrues while no contact is made with the borrower or no action is taken to cure the default, once it occurs. Face to face or telephone communication should be followed up with a letter if the loan remains in default and corrective action is not taken.

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**300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)**

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**C****Borrower in Default**

**PLP lenders will service defaulted loans according to their lender's agreement. In the event of borrower default, SEL and CLP lenders will \*--report to the Agency in accordance with 762.141, and follow the requirements of 762.143.--\***

A guaranteed loan is in default if a loan payment is outstanding 30 calendar days after its due date. A borrower may also be in default if they have violated a loan agreement in another manner such as conversion of loan security, filing bankruptcy, failure to submit reports as required, defaulting on another loan with the same lender, or failure to maintain collateral as agreed. The lender will determine if a loan warrants default status because of a nonmonetary violation of the loan agreement. See paragraph 301 for information on the servicing process for loans in nonmonetary default.

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**D****Borrower and Lender Meeting**

**The lender will arrange a meeting with the borrower within 15 days of default, 45 days after payment due date for monetary defaults, to identify the nature of the delinquency and develop a course of action that will eliminate the delinquency and correct the underlying problems. The lender or the borrower may request the attendance of an Agency credit officer. If requested, the Agency credit officer will assist in developing solutions to the borrower's financial problems. Non-monetary defaults will be handled in accordance with the lender's note, loan agreements or any other applicable loan documents.**

During this meeting, the lender should discuss the following items with the borrower.

- **Borrower's Ability to Bring Account in Compliance. The lender and borrower will prepare a current balance sheet and cash flow projection in preparation for the meeting. If the borrower refuses to cooperate, the lender will compile the best available information.** These statements and their implication in the borrower's ability to bring the loan current should be discussed at the lender-borrower meeting.
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**D****Borrower and Lender Meeting (Continued)**

- Restructuring Options Available to Borrower. The variety of possible restructuring options includes rescheduling, reamortization, deferral, or debt writedown or a combination thereof as described in paragraphs 325 through 328. After analyzing the current financial condition of the borrower, 1 or more of these options may be presented as possible solutions to resolve the borrower's financial problems.

**Note:** If requested, the Authorized Agency Official will assist in developing solutions to the borrower's financial problems. The Authorized Agency Official may offer advice and answer questions to assist in developing solutions to the borrower's financial problems, and may concur with limited proposals, such as short term forbearance, that result from the meeting. In the case of SEL's, official FSA concurrence cannot be provided until FSA receives a formal proposal for restructuring from the lender.

- Determination of Availability of IA. The lender must inform the borrower about the IA Program. If the lender and borrower feel that IA in conjunction with a loan rescheduling will correct the loan default, they may submit an IA request to FSA according to Part 8, Section 3. IA eligibility is determined by FSA according to Part 9. The borrower can waive IA Program eligibility consideration during the meeting. If program eligibility consideration is waived in writing, the loan can be accelerated immediately and a liquidation plan may be submitted to FSA.

**The lender will summarize the meeting and proposed solutions on the Agency form for guaranteed loan borrower default status (FSA-1980-44) completed after the meeting and submit it to the local credit office immediately. The lender will indicate the results on this form for the lender's consideration of the borrower for interest assistance in conjunction with a rescheduling under § 762.145 (b).** Copies of correspondence sent to the borrower regarding agreements reached may be attached to this report. The meeting summary attached to FSA-1980-44 should also include the dates of planned servicing actions. The lender must continue to submit FSA-1980-44 every 60 calendar days until the default is resolved or a final loss claim is submitted. The lender will include on each report the most recent contact with the borrower or action to collect the loan as well as the next planned action and date. If a default is resolved, the lender must submit FSA-1980-44 indicating that the loan is current \*--and the new loan terms and conditions. FSA will input the information supplied by the lender on FSA-1980-44 and any other updated information into GLS immediately upon receipt.--\*

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**300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)**

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**E****Borrower  
Refusal to  
Attend Meeting**

If after 60 calendar days a delinquent borrower does not respond to the lender's request for a meeting or refuses to discuss resolution of the default, the lender should take actions to protect their security interests and proceed with liquidation of the loan according to subparagraph G.

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**F****Lender  
Repurchase of  
Guarantee**

The lender will **determine whether it will repurchase the guaranteed portion from the holder in accordance with § 762.144 if the guaranteed portion of the loan was sold on the secondary market.** See Part 15.

The holder may ask the lender to repurchase the guarantee 60 calendar days after the missed payment date. The lender is encouraged to repurchase the guarantee when asked by the holder according to Part 15.

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**G****Earliest Date to  
Begin to  
Liquidate  
Security**

**The lender may not initiate foreclosure action on the loan until 60 days after eligibility of the borrower to participate in the Interest Assistance Programs has been determined by the Agency.**

Sixty calendar days after the disposition of the issue of IA, the lender may accelerate the loan. When accelerating the loan, SEL's and CLP lenders must submit a liquidation plan to FSA. If at any point before the end of the 60-calendar-day period the borrower waives IA eligibility consideration in writing, the lender may prepare to liquidate the loan immediately. See Part 14.

No abeyance period applies to loan restructuring. The lender and borrower may restructure a loan at any time following the meeting, regardless of the IA eligibility decision.

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**H****Loan  
Restructuring  
Decision**

**The lender must decide whether to restructure or liquidate the account within 90 days of default, unless the lender can document circumstances that justify an extension by the Agency.**

If loan restructuring cannot eliminate the default or the borrower will not eliminate the default within a reasonable period of time, the loan shall be liquidated. See Part 14. If requested by the lender, the Authorized Agency Official may allow brief extensions for the preparation of a restructuring proposal and will document the request, reasons and concurrence in the FSA guaranteed loan file.

If the borrower can present a feasible restructuring proposal, the lender should prepare the plan and submit it to FSA as required by their FSA-1980-38. **Standard eligible lenders must obtain prior written approval of the Agency for all restructuring actions.** See paragraph 313.

FSA expects CLP and PLP lenders to have explored servicing options and implemented a feasible restructuring plan within 90 calendar days of default. If a lender plans to perform a debt writedown, prior approval from FSA is necessary. See paragraph 328. If restructuring is infeasible, FSA expects the lender to accelerate the loan and prepare for liquidation by this date. See Part 14.

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**301 Nonmonetary Default - Overall Loan Servicing Process**

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**A  
Servicing  
Requirements**

If a borrower defaults on his loan because of a nonmonetary default, the lender must service the loan in a manner consistent with monetary default regulations. While FSA does not require the lender to follow the monetary default time line in the cases of nonmonetary default, FSA expects the lender to have a meeting with the borrower to explain the cause of the default soon after default is declared.

At the meeting between the lender and borrower, the lender should discuss corrective actions desired and options for mitigation of the default. For example, if the borrower was supposed to maintain a herd of 130 breeding animals, but was declared in default because it has decreased to 120, the lender should discuss the availability of replacement collateral, time frames, and conditions. The borrower and lender should work to develop a feasible restructuring plan.

Once default is declared the lender is expected to take all necessary actions to protect and secure the loan's collateral.

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**B  
FSA  
Concurrence**

If the lender and borrower cannot develop a feasible restructuring plan to bring the loan current again, the loan shall be liquidated. FSA will respond to \*\*\* CLP's request to liquidate a loan in the case of a nonmonetary default within 14 calendar days of receiving the lender's request for concurrence on loan liquidation. SEL lenders will be contacted by FSA within 30 calendar days of the receipt of a liquidation request. Once FSA concurs on a lender's request to liquidate a loan as a result of a nonmonetary default, FSA expects the lender to initiate a foreclosure action, accelerate the loan, and file a liquidation plan in a timely manner. See Part 14 for guidelines on liquidation.

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**302-311 (Reserved)**



## Section 2 Restructuring Requirements for Guaranteed Loans

## 312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)

## A General Requirements

For any restructuring action, the following conditions apply.

- **The borrower meets the eligibility criteria of § 762.120, except the provisions regarding prior debt forgiveness and delinquency on a Federal debt do not apply.**

**Note:** When a lender submits a request for FSA concurrence with a restructuring action, the Authorized Agency Official will review the borrower's eligibility for the loan. However, the eligibility provisions of subparagraphs 108 C and D do not apply to the restructuring of existing loans.

- **The borrower's ability to make the amended payment is documented by the following:** (SEL and CLP lender only; PLP lender shall see the lender's agreement)

- **a feasible plan (see section 762.102(b))**

**Note:** If interest assistance is required to achieve a feasible plan, the items required by Sec. 762.150(d) must be submitted with a restructuring request.

- **current financial statements from all liable parties**
- **verification of nonfarm income**
- **verification of all debts of \$1,000 or more**
- **applicable credit reports**
- **financial history (and production history for standard eligible lenders) for the past 3 years to support the cash flow projections.**
- **A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under this section.**

**312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)  
(Continued)**

**A General Requirements (Continued)**

- **Balloon payments are prohibited; however, the loan can be restructured with unequal installments, provided that, in addition to a feasible plan for the upcoming operating cycle, a feasible plan can be reasonably projected after the installments increase without further restructuring. Feasible plan is defined in § 762.102(b).**
- \*--Example of unequal installment:** A payment that increases as the cash flow and debt repayment ability of the farming operation increases because of development or expansion. Unequal installments may be used when development is being financed, such as the planting of orchards or other perennial crops, the construction of livestock or other processing facilities, or the purchase of foundation livestock. Since typical production income may not be realized for quite a number of years in some cases, higher installments could be scheduled later in the life of the loan. For instance, an orchard development may be financed resulting in the planting of immature trees. In years 1 through 3, there may be no realized production and income. In years 4 through 6, initial production may be anticipated; however, full production may not be expected until years 8 through 10. Unequal payments may be adjusted accordingly.--\*
- **If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted prior to the payment coming due.**
- **The lender may capitalize the outstanding interest.** See subparagraph 326 D.
- **The lender's security position will not be adversely affected because of the restructuring. New security instruments may be taken if needed, but a loan does not have to be fully secured in order to be restructured.**

**Note:** If the lender takes additional security as part of the loan restructuring, a list of the new security items and their estimated values should be forwarded to the Authorized Agency Official along with all other restructuring materials according to paragraph 313.

- **Any holder agrees in writing to any changes in the original loan terms, including the approval of interest assistance. If the holder does not agree, the lender must repurchase the loan from the holder for any loan restructuring to occur.**

**All lenders will submit copies of any restructured notes or lines of credit to the Agency.**

If a co-borrower or co-signer is required to execute a note in conjunction with a restructuring, the lender must provide the name, Social Security number, and current address of the co-borrower or co-signer to the Agency.

**313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145)****A SEL Request for Restructuring**

**Standard eligible lenders must obtain prior written approval of the Agency for all restructuring actions.**

After SEL has restructured the loan, the lender must submit:

- FSA-1980-44 indicating that the loan is current
- copies of restructured notes or LOC's.

After SEL has submitted all of these documents, FSA shall:

- review the documents for compliance
- input FSA-1980-44 into GLS
- execute FSA-1980-84 and provide a copy to the lender, if applicable
- complete and forward FSA-1980-48 to KCFO.

**Note:** For loans with IA, see subparagraphs 230 D and E for additional requirements.

**B CLP Restructuring Requirements**

**CLP lenders must obtain prior written approval of the Agency only for debt write down under this section.**

**For restructuring other than write down, CLP lenders will provide FSA with a certification that each requirement of this section (part) has been met, a narrative outlining the circumstances surrounding the need for restructuring, and copies of any applicable calculations.**



**313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145) (Continued)**

**B CLP Restructuring Requirements (Continued)**

In addition, the CLP lender will provide:

- copies of any restructured notes
- FSA-1980-44 to show the loan is current.

\* \* \*

\*--After the CLP lender has submitted all of these documents, FSA shall complete the same actions as for SEL's.--\*

**C PLP Restructuring Requirements**

**PLP lenders will restructure loans in accordance with their lender's agreement.**

A PLP lender may request guidance on or concurrence with a restructuring proposal. The Authorized Agency Official shall review the lender's request for compliance with the terms indicated in the credit management plan of their PLP FSA-1980-38.

**313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145) (Continued)****C PLP Restructuring Requirements (Continued)**

All PLP lenders will submit copies of any restructured notes to FSA. With the copies of any restructured notes, PLP's must attach a cover memo explaining the restructuring and FSA-1980-44 to confirm that the loan is once again current.

\*--After the PLP lender has submitted all of these documents, FSA shall complete the same actions as for CLP lenders.--\*

**314 FSA Response to Restructuring Requests****A Authorized Agency Official Responsibilities**

Authorized Agency Officials have several responsibilities in the event a loan defaults and a lender submits a restructuring plan, including:

- provide loan restructuring assistance and guidance as requested
- review FSA-1980-44 for compliance with FSA guarantee documents, the lender's loan agreement, promissory note, and FSA regulations
- inform the lender if the borrower is eligible for IA if requested
- process all FSA-1980-44's in GLS.

The Authorized Agency Official should contact the lender to discuss any problems with the proposal, request corrections, or suggest revisions. If the requested corrections are significant, this contact should be followed up with a letter outlining the additional information needed and a time frame for it to be provided. If the proposal is approved, the Authorized Agency Official will inform the lender that they may proceed to restructure the loan.

If the lender fails to provide updates on recent or planned collection actions, estimated timeframes for corrective actions proposed by the borrower, or other information reviewed that indicates that the lender is not acting timely or prudently to protect their interest, the Authorized Agency Official will inform the lender in writing of the problems noted and request modifications.

**314 FSA Response to Restructuring Requests (Continued)****A Authorized Agency Official Responsibilities (Continued)**

If an SEL lender has made the decision to liquidate a loan, the Authorized Agency Officials should ensure that SEL has investigated the feasibility of every restructuring option before a decision to liquidate was reached. It is solely the lender's prerogative to accept or reject a borrower's plan for resolution of a default or offer an option for restructuring the debt. Still, the Authorized Agency Official should review the situation and advise the lender of any unexplored servicing options that exist that may benefit the borrower, lender, and FSA.

**B FSA Response to Requests for Restructuring**

**[7 CFR 762.145(a)] If the standard eligible lender's proposal for servicing is not agreed to by the Agency, the Agency approval official will notify the lender in writing within 14 days of the lender's request.**

Authorized Agency Officials must review and respond to a restructuring request from SEL in a timely manner. Any request for concurrence on a restructuring plan must be accompanied by all necessary supporting documents according to paragraphs 313 and 326 through 328.

- **FSA Response to Rescheduling Request:** The Authorized Agency Official must review SEL's proposed rescheduling to determine that it is feasible and that the repayment period does not exceed the maximum allowable term. If SEL proposes a restructuring of a loan with capitalized interest the Authorized Agency Official must concur on the capitalization request along with the rescheduling request.
- **--FSA Response to Deferral Request:** After reviewing the restructuring proposal, the Authorized Agency Official must ensure that the deferral plan is feasible and that the deferral does not extend beyond the final due date of the loan note. If the deferral period extends beyond 1 year, interest in its totality cannot be deferred. A portion of interest--\* must be paid for each year the loan is in abeyance.

If the lender's proposal for servicing is not agreed to by FSA, the Agency approval official shall notify the lender in writing within 14 calendar days of the lender's request. This letter will inform the lender and borrower of their joint informal review, mediation, and appeal rights according to 1-APP.

**314 FSA Response to Restructuring Requests (Continued)**

**C FSA Review of PLP Restructuring Actions**

In addition, an explanation of the restructuring must accompany a completed FSA-1980-44 confirming that the loan is current.

The Authorized Agency Official shall review the loan restructuring documents according to paragraphs 313 and 326 through 328, and confirm that the restructuring action(s) did not violate any FSA regulations. If the Authorized Agency Official has any concerns regarding the restructuring of the loan, the Authorized Agency Official shall contact the lender to discuss the concerns.

**315-325 (Reserved)**

**Section 3 Restructuring Options****326 Rescheduling of Debt (7 CFR 762.145)****A Overview**

Rescheduling involves changing the payment terms of a loan, such as a change in the interest rate or term in years of a note or LOC agreement. The new repayment schedule must be based on the borrower's ability to repay over the maximum loan term or life of the security. A loan does not have to be in default before being rescheduled.

**B General Requirements for Rescheduling**

**[7 CFR 762.145(c)] Payments will be rescheduled within the following terms:**

- **FO and existing SW loans may be amortized over the remaining term of the note or rescheduled with an uneven payment schedule over a period not to exceed 40 years from the date of the original note**
- **OL notes must be rescheduled over a period not to exceed 15 years from the date of the rescheduling. An OL line of credit must be rescheduled over a period not to exceed 7 years from the date of the rescheduling or 10 years from the date of the original note, whichever is less. Advances cannot be made against a line of credit loan that has had any portion of the loan rescheduled.**

**The interest rate for a rescheduled loan is the negotiated rate agreed upon by the lender and the borrower at the time of the action, subject to the loan limitations for each type of loan.**

## 326 Rescheduling of Debt (7 CFR 762.145) (Continued)

**C Required Lender Actions**

**[7 CFR 762.145(c)] A new note is not necessary when rescheduling occurs. However, if a new note is not taken, the existing note or line of credit agreement must be modified by attaching an “allonge” or other legally effective amendment, evidencing the revised repayment schedule and any interest rate change. If a new note is taken, the new note must reference the old note and state that the indebtedness evidenced by the old note or line of credit agreement is not satisfied. The original note or line of credit agreement must be retained.**

To request a rescheduling, SEL lenders must submit documentation according to the requirements listed in paragraph 313 and obtain FSA approval before implementation of the action. CLP and PLP lenders must submit documentation according to requirements listed in paragraph 313 **after** rescheduling a loan.

**D Capitalization of Interest**

**[7 CFR 762.145(b)] The lender may capitalize the outstanding interest when restructuring the loan as follows:**

- **As a result of the capitalization of interest, a rescheduled promissary note may increase the amount of principal which the borrower is required to pay. However, in no case will such principal amount exceed the statutory loan limits contained in § 762.122.**
- **When accrued interest causes the loan amount to exceed the statutory loan limits, rescheduling may be approved without capitalization of the amount that exceeds the limit. Noncapitalized interest may be scheduled for repayment over the term of the rescheduled note.**

In a restructuring action, if capitalization of interest will cause the increased combined \*--principal of the borrower’s outstanding OL’s and FO’s to exceed the limits outlined in subparagraph 244 A, the portion of the interest that would cause the loan to exceed the--\* loan limit cannot be capitalized. Excess interest will be guaranteed and the lender may schedule the repayment over the term of the rescheduled note. If payments are received on the loan after the restructuring that exceed the regularly scheduled installment, excess payments may be applied to the non-capitalized interest first.

## 326 Rescheduling of Debt (7 CFR 762.145) (Continued)

**D Capitalization of Interest (Continued)**

- **Only interest that has accrued at the rate indicated on the borrower's original promissory notes may be capitalized. Late payment fees or default interest penalties that have accrued due to the borrower's failure to make payments as agreed are not covered under the guarantee and may not be capitalized.**
- **Approved capitalized interest will be treated as part of the principal and interest that accrues thereon, in the event that a loss should occur.**

As part of restructuring request, SEL's must receive FSA concurrence before interest can be capitalized.

Following restructuring, the lender should submit FSA-1980-44 indicating that the loan is current.

The lender may keep a record of late fees and default charges and collect them from the borrower in the case of extra payments or payment in full.

**E FSA Review of Capitalization Request**

**The Agency will execute a modification of guarantee form to identify the new loan principal and the guaranteed portion if greater than the original loan amounts, and to waive the restriction on capitalization of interest, if applicable, to the existing guarantee documents. The modification form will be attached to the original Guarantee as an addendum.**

When CLP or PLP has rescheduled or reamortized a loan with capitalized interest, or when the Authorized Agency Official has concurred with SEL restructuring plan that includes \*-capitalized interest, FSA must complete FSA-1980-84 to reflect the new guaranteed principal and any capitalized interest.

A copy of FSA-1980-84 will be placed in the FSA guaranteed loan file and the original will be attached to the original guarantee.--\*

**326 Rescheduling of Debt (7 CFR 762.145) (Continued)**

\* \* \*

**F IA**

Rescheduling of a loan with IA must meet all the conditions described in this paragraph and Part 9.

**G Loan Consolidation**

If a borrower has 2 or more guaranteed loans, the lender, under certain circumstances, may consolidate the guaranteed loans before rescheduling. The single, consolidated loan would be rescheduled according to this paragraph. See paragraph 286 for conditions regarding the consolidation of guaranteed loans.

## 327 Deferrals (7 CFR 762.145(d))

**A General Description**

A deferral postpones the payment of principal and interest on FO, OL, or LOC to accommodate a temporary inability of the borrower to make scheduled payments. Loan principal can be deferred in whole or part. If the deferment period is 1 year or less, interest can be deferred in whole or in part. Interest may only be deferred in part if the deferral period extends over 1 year.

**B Conditions**

**The following conditions apply to deferrals:**

- **Payments may be deferred up to 5 years, but the loan may not be extended beyond the final due date of the note.**
- **The principal portion of the payment may be deferred either in whole or in part.**
- **Interest may be deferred only in part. Payment of a reasonable portion of accruing interest as indicated by the borrower's cash flow projections is required for multi-year deferrals.**
- **There must be a reasonable prospect that the borrower will be able to resume full payments at the end of the deferral period.**

The amount of principal and interest deferred must be based on the borrower's current ability to pay and projections regarding ability to pay in the future. If the deferral period is to extend beyond 1 year, only a portion of the interest can be deferred.

- \*--If a LOC deferral exceeds 1 year, then LOC must be restructured and no new advances can be made. For LOC deferrals for less than 1 year there must be either inventory on hand to cover the carryover debt balances or they must show repayment of the carryover debt plus the new operating cycle advances. If the LOC deferral is 1 year or less, it is unnecessary to notify the Finance Office.--\*

The loan may be rescheduled after the deferral if payments as scheduled cannot be made.

**C Lender Request to Defer a Loan**

- To request a deferral, SEL lenders must submit documentation according to the requirements \*--listed in paragraph 313. Based on this documentation, the Authorized Agency Official--\* will notify the lender in a timely manner whether or not the deferral plan is approved.

CLP lenders must submit documentation according to paragraph 313, after completing the loan restructuring.

PLP must restructure loans according to FSA-1980-38 and provide post-restructuring documentation to FSA according to paragraph 313.

**328 Debt Writedown (7 CFR 762.145(e))****A Overview**

A debt writedown involves writing off a portion of the outstanding balance of a loan. A lender may write down a delinquent guaranteed loan only in an amount sufficient to enable the borrower to repay the reduced debt over the remaining term of the loan. All lenders must seek FSA concurrence before they can execute a debt writedown. Debt writedown loss claims must be approved by SED.

**B General Requirements**

**The following conditions apply to debt writedown:**

- **A lender may only writedown a delinquent guaranteed loan or line of credit in an amount sufficient to permit the borrower to develop a feasible plan of operation as defined in § 762.102(b).**
- **The lender will request other creditors to negotiate their debts before a writedown is considered.**
- **The borrower cannot develop a feasible plan after consideration is given to rescheduling and deferral under this section.**
- **The present value of the loan to be written down, based on the interest rate of the rescheduled loan, will be equal to or exceed the net recovery value of the loan collateral.**
- **The loan will be restructured with regular payments at terms no shorter than 5 years for a line of credit and OL loan note and no shorter than 20 years for FO, \*--unless required to be shorter by § 762.145(c)(1)(i) and (ii).--\***
- **No further advances may be made on a line of credit that is written down.**
- **Loans may not be written down with interest assistance. If a borrower's loan presently on interest assistance requires a writedown, the writedown will be considered without interest assistance.**
- **The writedown is based on writing down the shorter-term loans first.**

## 328 Debt Writedown (7 CFR 762.145(e)) (Continued)

**B General Requirements (Continued)**

- **When a lender requests approval of a writedown for a borrower with multiple loans, the security for all of the loans will be cross-collateralized and continue to serve as security for the loan that is written down. If a borrower has multiple loans and one loan is written off entirely through debt writedown, the security for that loan will not be released and will remain as security for the other written down debt. Additional security instruments will be taken if required to cross-collateralize security or maintain lien priority.**
- **The writedown will be evidenced by an allonge or amendment to the existing note or line of credit reflecting the writedown.**

\*--The payment of a loss claim in conjunction with a debt writedown does not establish a Federal debt and is not subject to offset.--\*

The holder or holders, if any, must agree to the writedown or the lender must repurchase the guaranteed portion.

**C Borrower Execution of FSA-1980-89**

**The borrower executes an Agency shared appreciation agreement for loans which are written down and secured by real estate. See paragraph 288 for information on servicing FSA-1980-89's.**

- **The lender will attach the original agreement to the restructured loan document.**
- **The lender will provide the Agency a copy of the executed agreement.**
- **Security instruments must ensure future collection of any appreciation under the agreement.**

## 328 Debt Writedown (7 CFR 762.145(e)) (Continued)

**D Lender Actions to Support Write Down Debt Request**

The lender will prepare and submit the following to the Agency:

- a current appraisal of all property securing the loan in accordance with § 762.127 and paragraphs 181 through 183
- a completed report of loss on the appropriate Agency form for the proposed writedown loss claim

\* \* \*

- detailed writedown calculation as follows:

**Note:** Detailed writedown calculations will be recorded on FSA-1980-88. Refer to FMI for completion instructions and examples. If a borrower's cash flow projection indicates that within a definite, foreseeable time, additional repayment will be available for the guaranteed loan, the present value of the loan will be calculated based on an uneven payment stream.

- calculate the present value (Exhibit 10)
- determine the net recovery value (Exhibit 10)
- if the net recovery value exceeds the present value, writedown is unavailable; liquidation becomes the next servicing consideration
- if the present value equals or exceeds the net recovery value, the debt may be written down to the present value
- the lender will make any adjustments in the calculations, as requested by the Agency.

**328 Debt Writedown (7 CFR 762.145(e)) (Continued)****D Lender Actions to Support Write Down Debt Request (Continued)**

The appraisal will be paid for by the lender, but the cost can be passed to the borrower.

FSA-1980-88 will be used to calculate lender loss. After the lender loss has been calculated on FSA-1980-88, the lender loss claim will be submitted on RD-449-30. Lender loss will be the percentage of the guarantee multiplied by the difference between the outstanding principal and interest balance of the loan before the writedown and the outstanding balance of the loan after the writedown.

In addition to the materials noted in this paragraph, SEL's and CLP's must submit materials according to paragraph 313 to request a debt writedown.

**329 FSA Review and Monitoring of Restructured Loans (7 CFR 762.145(b))****A Post-Restructuring Review and FSA Reporting Requirements**

\*--The Authorized Agency Official shall, after receiving a restructured note or LOC or an amendment to a note or LOC from a lender, review all applicable restructuring documents--\* received by FSA, including the restructured note and FSA-1980-44 stating that the loan is current, and ensure that the loan was restructured with the principal, accrued interest, payments, interest rate and terms to which FSA agreed. If any discrepancies are found between regulatory requirements or the restructuring plan FSA originally agreed to and the executed restructuring, the lender must correct the restructured note. After the correctness of the restructured note has been verified, the restructured or amended note and the Modification of Guarantee, if interest was capitalized, should be attached to the copy of the original note.

\* \* \*

**329 FSA Review and Monitoring of Restructured Loans (7 CFR 762.145(b)) (Continued)****B FSA Monitoring of Lender Loan Files With Restructured Loans**

When reviewing files of loans that have been restructured, FSA employees must ensure that lenders restructured their loans according to the terms agreed to by FSA according to their FSA-1980-38. If the loan was restructured with terms that FSA did not agree to, the lender must adjust the loan terms to comply with terms FSA agreed to originally.

When reviewing CLP loan files, Authorized Agency Officials should ensure that loans were restructured according to FSA rules and regulations and that the materials submitted in support of a restructuring action are accurate.

When reviewing restructured loan files made by PLP lenders, Authorized Agency Officials should ensure that all restructuring was done according to FSA-1980-38. If FSA-1980-38 is silent on a certain restructuring subject, the PLP lender must follow FSA rules and regulations for CLP lenders.

FSA may use FSA-1980-05 as a guide for reviewing debt writedowns.

**C FSA Monitoring of Loans That Have Been Restructured**

**A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under this section.**

If the lender submits a loss claim on a loan that was restructured, and the loan was not restructured according to FSA-approved terms, the loss claim may be reduced or denied altogether.

**330-339 (Reserved)**