

For: State and County Offices

Farm Storage Facility Loan (FSFL) Program Bankruptcy Software Deployment

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

County Offices have been approving and disbursing FSFL's since May 2000. Since that time, a small number of FSFL borrowers have filed bankruptcy. Following are the 2 most frequently encountered forms of bankruptcy:

- Chapter 7 - Liquidations or "Straight Bankruptcies"
- Chapter 11 or 12 - Adjustment of Debts or Reorganization.

Individuals and business entities (corporations, partnerships, limited liability companies, business trusts and certain associations) are eligible for Chapter 7 relief.

Bankruptcy plan reorganizations (Chapter 11 or 12) provide for debt reduction for businesses or for a "family farmer".

B Purpose

This notice informs State and County Offices about the:

- availability of software for liquidating FSFL's turned over to CCC
- initial release and ongoing development of software for handling FSFL reorganization bankruptcies
- actions required by PSD, State Offices, and County Offices about the correct procedure for FSFL's in bankruptcy.

Disposal Date	Distribution
March 1, 2008	State Offices, State Offices relay to County Offices

Notice FSFL-40

1 Overview (Continued)

C Contacts

State Specialists who have questions about this notice shall contact the following:

- for **policy**, DeAnn Allen by either of the following:
 - e-mail at **deann.allen@wdc.usda.gov**
 - telephone at 202-720-9889
- for **automation**, Joseph Doleski by either of the following:
 - e-mail at **joseph.doleski@wdc.usda.gov**
 - telephone at 202-720-8401.

2 Circumstances That Require Using the Bankruptcy Software

A APSS Software for Chapter 7 Liquidations

Software for liquidations was made available in APSS previously, and will continue to be used for Chapter 7 bankruptcies where the borrower is liquidating assets and:

- CCC must sell the loan collateral
- proceeds received from the sale of loan collateral may or may not be adequate to fully pay off the FSFL loan
- a claim must be established for the remaining unpaid balance, if any.

Notice FSFL-40

2 Circumstances That Require Using the Bankruptcy Software (Continued)

B New APSS Software Release for Reorganizations for Chapters 11 or 12

The new APSS software (Phase I, see subparagraph 3 A) included in Software Release No. 610 will provide for Chapter 11 or 12 reorganizations as follows:

- freezing original FSFL loans to discontinue any repayment activity
- identifying the original loan as being in reorganization or “bankrupt” status
- establishing a bankruptcy plan repayment schedule for reorganizations
- properly assigning specific bankruptcy accounting codes to repayments received
- maintaining a record of repayments received for later use to apply repayments to the original loan sequentially for accounting “write down” calculations, a subsequent assumption by another qualified buyer, or a liquidation
- allow for proper interest credit for tax year 1099’s because of different interest rates assigned to Chapter 11 or 12 by bankruptcy courts.

3 FSFL Reorganization Software Deployment

A Phase I for Chapters 11 or 12 Bankruptcies

This initial software release will provide for:

- changing the status of the original FSFL loan to “bankrupt”
- “freezing” the original loan so that regular repayment activity is not allowed while the borrower is under bankruptcy reorganization
- creating a new repayment schedule corresponding to the reorganization plan provided by the bankruptcy court (both secured and unsecured)
- recording repayments and transmitting data to accounting with appropriate accounting codes while under the reorganization plan.

Notice FSFL-40

3 FSFL Reorganization Software Deployment (Continued)

B Phase 2 for Chapter 11 or 12 Bankruptcies

A later software release will provide for:

- applying both secured and unsecured bankruptcy repayments to the original loans
- correcting the CCC-257 transactions on the related transmittals to reflect appropriate interest for 1099 purposes
- calculating “write down” amounts for accounting
- generating reports that reflect loans in bankruptcy status.

4 Procedure for Handling Chapter 7, 11, and 12 Bankruptcies

A PSD Action

Each bankruptcy is unique and it is difficult to develop general instructions to fit all bankruptcy scenarios. PSD will:

- develop detailed customized instructions, including screen prints, for using both the liquidation and bankruptcy reorganization software
- provide these instructions to State and County Offices when notified about the particulars of a specific bankruptcy
- work directly with the State and County Offices to provide relevant written and verbal instructions to enter liquidation and reorganization data into APSS.

B State Office Action

Each State Office Price Support Specialist:

- is responsible for ensuring that all County Office employees inform their respective State Office of any FSFL borrower filing for bankruptcy
- shall immediately notify the PSD contacts according to subparagraph 1 C whenever they become aware of borrowers in their State filing for relief under Chapter 7, 11, or 12 bankruptcies (see 1-FSFL, paragraph 172)
- shall emphasize that County Office personnel **shall not access software** for FSFL liquidations or bankruptcies unless and until PSD provides verbal and written instructions to the County Office that has an actual liquidation or reorganization case.

Notice FSFL-40

4 Procedure for Handling Chapter 7, 11, and 12 Bankruptcies (Continued)

C County Office Action

County Office employees should be aware that both liquidation and reorganization software is available for use **only**:

- with FSFL's
- when notified they have an FSFL borrower filing for relief under Chapter 7, 11, or 12 of the Bankruptcy Code
- after their State Office and PSD are notified of the bankruptcy details
- after receiving specific instructions tailored to the individual bankruptcy case from PSD.