



Building Rural America
National Association of Credit Specialists
of the
USDA – Farm Service Agency
Farm Loan Program Committee

THE FARM LOAN PROGRAM COMMITTEE MET AT THE HOLIDAY INN COUNTRY CLUB PLAZA IN KANSAS CITY, MO, ON JUNE 26-28, 2017 TO REVIEW RESOLUTIONS SUBMITTED BY THE MEMBERSHIP.

THE FOLLOWING RESOLUTIONS ARE RECOMMENDED FOR ADOPTION:

Resolution 1 LM/LS

CONCERN:

Regulation now requires posting e-mail correspondence in the running record. E-mails commonly have lengthy attachments that are the most important part of the correspondence that can't be posted to the running record. E-mails also tend to be long strings of replies that occur over a wide range of time, so posting the e-mail with the final string in the running record disturbs the chronological order of the running record by having earlier e-mails within the string out of chronological order. Posting the e-mail in the running record is duplicating work by requiring posting it electronically instead of just printing it and treating like regular mail correspondence since it is e-mail.

PROPOSED SOLUTION:

Posting of emails to the running record portion of Farm Business Plan should remain optional until such a time that attachments can be added.

Resolution 2 LM

CONCERN

3-FLP paragraph 132E was revised on 5/23/2016 to make a change to the calculation of term limits for Direct FO loans. The new interpretation of "outstanding" as used in the CFR has, in some instances, reduced the eligibility period for some FSA loan applicants and borrowers when compared to the old interpretation. The former interpretation allowed for a borrower to obtain additional FSA financing as long as the borrower's total cumulative outstanding FO balance did not exceed 10 years. The borrower only lost a day of eligibility if they had an FO balance on that particular day, thus giving the borrower a full 10 years of consecutive or non-consecutive eligibility. The current interpretation uses the calculation for the year that the loan was closed and then adds 9 additional years of eligibility. For the majority of borrowers, this will actually shorten the time in which they can obtain D-FO financing to less than 10 years as allowable by law. If a borrower closes a loan on the last day of the calendar year, the borrower has used an entire year of eligibility although the loan was only outstanding for one day of that eligibility year. If that same borrower then pays off the FO loan on January 1st of the 10th year of eligibility, they will either be required to close another FO within the next 364 days or lose a 2nd year of eligibility because they had an outstanding FO balance for one day during the 10th year.

For example: Former Rule

Loan closed - 12/31/2016; Final date to receive additional D-FO loans - 12/31/2026

Period of eligibility - 10 years - 0 months - 0 days

Current Rule

Loan closed - 12/31/2016; Final date to receive additional D-FO loans - 12/31/2025

Period of eligibility - 9 year - 0 months - 1 day

PROPOSED SOLUTION:

Change 3-FLP paragraph 132E to reflect the former interpretation of the term limit rule for Direct FO loans.

Resolution 3 LM

CONCERN:

When doing the checklists for each type of loan, offices are bogged down by options that do not pertain to the type of loan being processed. The universal checklist is inclusive of all items that may be needed for each of the different loans. Having to check off each unnecessary item as "N/A" is a waste of time and could be changed.

PROPOSED SOLUTION:

Make a checklist for each type of loan that includes only relevant items on it.

Resolution 4 LM

CONCERN:

The definition of veteran farmer establishes that the individual has either not operated a farm or has operated a farm not more than 10 years. Based on this criteria, a veteran farmer is nothing more than a beginning farmer.

PROPOSED SOLUTION:

Remove the "beginning farmer" component from the definition to include all farmers who are veterans. Alternatively, if no special privileges can be extended to veterans who are not beginning farmers, then the term should be eliminated.

Resolution 5 LM

CONCERN:

Revised FSA-2211 Box #5 states, I (or members holding a majority interest, if an entity applicant) am a citizen of the United States, a US qualified alien under applicable Federal immigration laws. United States non-citizen nationals and qualified aliens are required to provide the appropriate documentation as to their immigration status.

PROPOSED SOLUTION:

Under the new verbiage we have no way of knowing what their status is. What if a lender didn't provide the necessary documentation? Do we ask for it? Make this information the same verbiage as on FSA-2001 Box 10.

Resolution 6 LM

CONCERN:

Farm Business Plan (FBP) is our tool for preparing financial information for loan making and loan servicing actions. FSA-2038 is the worksheet tool to gather information to input into FBP. Part B - Expenses - provides a line by line duplicate of the expense input area in the cash flow portion of FBP. However, there is no line to capture anticipated expenses for storage and warehouse to input into the line item for storage and warehouse in FBP.

PROPOSED SOLUTION:

Modify FSA-2038 to add a line item in Part B to capture planned expenses for storage and warehouse costs. (Note: This request will also be submitted through USDA Connect Technical Review Forum.)

Resolution 7 LM

CONCERN:

3-FLP, paragraph 371E is contradictory to 3-FLP, paragraph 111A. This can lead to inconsistencies in requiring hazard insurance on additional security and/or non-essential assets.

Paragraph 371E reads that FSA does not require a search of public records to verify the available lien position or insurance for additional security or nonessential assets.

However, paragraph 111A reads that ALL security, except growing crops, must be covered by hazard insurance.

PROPOSED SOLUTION:

Move the insurance language of Paragraph 371A to the Insurance section of 3-FLP and clearly state that the hazard insurance requirement does not apply to additional security and non-essential assets.

Resolution 8 LS

CONCERN:

1. You can't have two payees on an FSA program assignment check...it has to be either the bank or FSA. We want FSA's name on the check.
2. National Office says we can't release a check to a subordination when the check is payable only to FSA.

PROPOSED SOLUTION:

Add the following to 3-FI:

Handle FLP check remittances that are written solely to FSA according to this table:

IF....	THEN....
No proceeds are due to FSA	Endorse the check "without recourse" and release to borrower. Include name and title of FSA employee that processes the endorsement.
If FSA has subordinated the security to a bank loan and the check is needed to pay the lender's subordination	Endorse the check "to (Name of Lender) only for payment on subordination dated xx-xx-20xx, without recourse". Include name and title of FSA employee that processes the endorsement.
The check is for deposit into borrower's supervised bank account	Endorse the check "for deposit in supervised bank account in the (Name of Bank) pursuant to deposit agreement dated xx-xx-20xx". Include name and title of FSA employee that processes the endorsement.

Resolution 9 LS

CONCERN:

A borrower brought in \$6,350.00 in cash to the office.

1. County office has no way of checking and making sure we are not receiving any counterfeit money.
2. County office employee has to accept the cash and either get money order or cashier's check in order to process the payment.
3. Tried to go to a financial institution to obtain a cashier's check. It is their policy and probably all financial institutions to NOT issue cashier checks unless the person has an account with that institution.
According to 1-FLP, Par. 102 B: The authorized agency official is not required to provide his or her SSN to the financial institution. Government agencies are exempt from the requirements of the Customer Identification Program. See 3-FI and 64-FI.
4. Brought form FSA-2139 A to financial institution. After researching, the financial institution received the following information from FinCen:
The form FSA-2139A may exempt them from a CTR "Currency Transaction Report", but it will NOT exempt them from cash purchase of a monetary instrument log. FinCen has gone round with multiple Federal Government Agencies including FBI. We, as the bank are required by the law to collect the information (soc. sec. #, person's name) needed to complete the log.

5. Without an account at the financial institution, an FSA employee would still need to go to another financial institution or post office to obtain a cashier's check or money order over \$3,000.00. A post office cannot issue money orders over \$3,000, without the person filling out the post office form 8105-A. This form requires the person to complete such information as date of birth, social security number, and 2 forms of ID. A post office is only able to issue money orders up to \$10,000 per person per day.
6. There does not appear to be a way to get a cashier's check or money order over \$3,000 at one place without providing personal information. Form FSA-2139 does not appear to do any provide any relief.
7. The tax payers should not bear the burden of the expense of obtaining a money order or check.

PROPOSED SOLUTION:

Provide additional handbook guidance on the handling of situations when local financial institutions will not accept large amounts of cash or financial institutions will not work with FSA to handle the cash.

Resolution 11 LS

CONCERN:

There is no means to link a 3rd party pledge of security in DLM and FBP. DLM only has the options of Cosigner, Coborrower and Guarantor. FBP has the options of Spouse, Co-applicant, Co-owner, Guarantor, and Grantor. This creates additional issues when needing to send 90 day packets as DLS will prompt you to send Ex. 13 to 3rd parties, but only if they are linked.

PROPOSED SOLUTION:

Add another category of "3rd Party Pledge" that will allow us to link them and be prompted to send servicing notices when necessary.

Resolution 12 LS

CONCERN:

The instructions for FSA-2103 for item 2 S are not clear. The item itself states "Was security adequate for the loan?" The instructions state "Security requirements for OL, FO, and EM loans are set forth in 3-FLP. The reviewer should ensure that adequate security for the loan has been obtained considering the loan type and the purposes for which the loan funds are being used. Evaluate the collateral analyses in FBP to determine compliance with requirements. If the security requirements have been met, the reviewer will answer "YES". If not, the reviewer will answer "NO". State office is failing dockets when the issue has to do with additional security when the intent of the item was to establish only ADEQUATE SECURITY.

PROPOSED SOLUTION:

Modify form FSA-2103 item 2 S to read "Have all security requirements been met?".

Resolution 13 LS

CONCERN:

2-FLP, Paragraph 286C tells you to fill out FSA-2245 with the loan amount, new terms & guarantee percentage: however, there is nowhere on the form to put the terms. This is an issue when you are consolidating multiple LOC and they all will now have the closest maturity date.

PROPOSED SOLUTION:

Update FSA-2245 to have a field where you have the new terms. (Note: This request will also be submitted through USDA Connect Technical Review Forum.)

Resolution 14

CONCERN:

If a borrower graduates with a loan from another lender who is requesting a guarantee and the portion of the loan being graduated is less than 50% a fee is charged.

PROPOSED SOLUTION:

Since this is a graduation, the fee should be waived on at least the portion being graduated or in its entirety.

THE FOLLOWING RESOLUTIONS ARE RECOMMENDED FOR NON-ADOPTION:

Resolution 15 LS

CONCERN:

Currently, there are several instances where borrowers who have FSA loans in their individual names then form an Entity to operate under. In these instances, the borrowers were instructed to do so by their accountants and lawyers. For example, John and Susan Doe have existing FSA direct loans as joint borrowers. John and Susan form Doe Farms LLC to operate their farm. John and Susan own the LLC 50/50. According to procedure we would need to have Doe Farms LLC assume the loans that John and Susan Doe have. This would require a full application and take a lot of time to complete, when the same people are still operating the farm.

PROPOSED SOLUTION:

Proposed solution would be for the new entity (as long as it is same members and percent ownership as current borrowers) to sign an Assumption Agreement and do a case name change without going through the full application process. This would only be in effect if there are no changes to who the borrowers are other than they are operating under an entity. If an additional person was added to the entity who was not currently liable for the loan, this would not qualify.

REASON FOR NON-ADOPT:

Ability to just sign an Assumption Agreement and circumvent the full application process is currently being implemented. No need for this request.

Resolution 16

CONCERN:

1-FLP Par. 141G prohibits the use of borrower-ordered appraisals for loan making or servicing actions except as provided in 5-FLP for special servicing actions.

PROPOSED SOLUTION:

In a tight budget environment we have begun to see a shortfall in funding for appraisals; however, we continue to have FO loan funds. The lack of appraisal funds prolongs closing and many borrowers ask/offer to order and pay for the appraisal on their own in order to keep the closing process moving. Delaying closing could cause borrowers to lose out on sale contracts due to time constraints. Change the handbook reference to allow the use of borrower ordered appraisals as long as they are completed by an FSA approved appraiser, completed according to FSA procedure, and FSA is listed as an intended user on the appraisal.

REASON FOR NON-ADOPT:

This is a USPAP issue and making a handbook amendment will not speed up the process.

Resolution 17

CONCERN

It is a lengthy application and underwriting process to restructure D-OLs that were originally set up on an amortization that was longer than 7 years. These longer amortizations are a necessary tool that can be used during times of economic distress or to assist beginning farmers.

PROPOSED SOLUTION:

Add streamlined servicing requests as another Primary Loan Servicing Program under Part 4 of 5-FLP. It will allow us to attach an addendum to the original note that pushes out the maturity date to match the original amortization. Make the streamlined PLS application, requirements, and underwriting similar to streamlined OLs. This will reward customers for timely paying FSA loans with an easier application process and save many FSA personnel hours.

REASON FOR NON-ADOPT:

The servicing and review required at the time the balloon payment comes due is necessary.

Resolution 18

CONCERN:

Servicing operating loans that mature with a balloon payment due when borrowers cannot pay in a lump sum. Many of these balloon payments across the Agency are necessary to set up a direct operating loan (D-OL) on an amortization longer than seven years for financing longer life collateral.

- A. Amortizations longer than seven years are commonly used in industries such as dairy on D-OLs to help the cash flow of SDA and beginning farmers. Starting agricultural ventures often require large capital purchases in the first few years of business.
- B. Several FSA customers pay faithfully each month and are currently unable to continue the same payment when their note balloons without having to go through a lengthy rescheduling process.

- C. Many FSA employee and customer hours are spent getting a complete servicing application, preparing a new credit presentation, and running eDALRs to obtain approval. Efficiencies of FSA staff are lost in the current process of servicing ballooned notes.

PROPOSED SOLUTION:

Add a streamlined servicing process as another Primary Loan Servicing Program under Part 4 of 5-FLP. Applicants would need to meet the following requirements

1. Would need to meet all requirements outlined in 5-FLP paragraph 102 excluding item 102D
2. Must be current on all payments to the Farm Service Agency
3. Have not experienced any significant changes to their operation since the closing of the original note
4. Present an updated, positive cash flow plan reflecting the ability for repayment to FSA and all creditors
5. Did not receive primary loan servicing in the previous year
6. Meet all other requirements and eligibility criteria for loan rescheduling as outlined in 5-FLP Part 4
7. Have no major changes to the original loan security, nor any pending security issues
8. Have a note addendum completed that will continue the loan at the existing rate and payment schedule until paid in full according to the original amortization. (Addendum will be attached to the original note.)

Although it's understood that this requires a statutory change to 5-FLP, we believe this should be added to the list of future changes to be requested. If the goal is to keep FSA the "can-do" Agency, let's help our field employees and customers with a more streamlined servicing process focused on efficiency and exceptional service.

REASON FOR NON-ADOPT:

The servicing and review required at the time the balloon payment comes due is necessary.

Resolution 19

CONCERN:

If a loan is not closed within 90 days from approval, FSA is required to reconfirm the loan requirements prior to loan closing. However, very little guidance is available on exactly how to reconfirm the loan requirements. This can lead to inconsistencies in what is required to be resubmitted to FSA. For example, does FSA require a new credit report to be pulled? Debt verifications? New balance sheet? New projected cash flow? Updated non-farm income verification?

PROPOSED SOLUTION:

Please provide additional guidance in paragraph 371A on steps to take to reconfirm loan requirements. If the applicant should resubmit all information required for a complete application in order to properly "reconfirm", then amend the non CFR language of paragraph 371A to state so.

REASON FOR NON-ADOPT:

The verbiage is already in place to clarify and additional detail limits flexibility.

Resolution 20

CONCERN:

Information used in the cosigner examples are for spousal situations only. Many times cosigners are not spouses and have separate farming operations, living expenses, etc. of their own. However, no direction is provided on how in depth to go in these situations. The recently added Exhibit 6 does indicate a credit report should be pulled and debt and income verifications should be obtained for cosigners. However, per regulation, only applicants have to be credit worthy. Therefore, it appears the credit report is being pulled only to account for debts owed by the cosigner. The data required by Exhibit 6 is insufficient to properly develop a cosigner's own cash flow to determine residual cash flow available to support the applicant's cash flow projection.

PROPOSED SOLUTION:

Provide additional/complete guidance in 3-FLP on the items needed from a cosigner and the development of cosigner's cash flow projections such as requirements for a balance sheet, creditor list, projected farm operating plan if a farm operator, living expenses and any other information needed to support the cosigner's plan. Without this information, it is not possible to properly project residual income available from the cosigner.

REASON FOR NON-ADOPT:

The information is already there. If additional information is desired, it can be requested.

Resolution 21

CONCERN:

The ability to bypass an appraisal and perform an in house estimation if a Primary Loan Servicing act can be utilized without a write down being required.

PROPOSED SOLUTION:

Therefore, be it resolved to support the use of an in house estimation instead of an appraisal if PLS can be utilized without a write down.

REASON FOR NON-ADOPT:

Security values are not required unless eDALRS proposes a servicing writedown.

Resolution 22

CONCERN:

Forms within GLS have been deactivated and current forms are not available within GLS system.

PROPOSED SOLUTION:

Therefore, be it resolved to support an update to the GLS system to include the current forms for employees to utilize.

REASON FOR NON-ADOPT:

This is already being done and should be out shortly.

Resolution 23

CONCERN:

Current forms are not on GLS website – FSA-2232 “Conditional Commitment” and FSA-2235 “Loan Guarantee”. These forms were provided as data filled forms which was very efficient and reduced errors.

PROPOSED SOLUTION:

Update GLS website with new versions of these forms as data filled.

REASON FOR NON-ADOPT:

This is already being done and should be out shortly.

Resolution 24

CONCERN:

The current National Program Tech training guide is needed to be updated to replace any outdated material.

PROPOSED SOLUTION:

Encourage the National Program Tech training guide be updated.

REASON FOR NON-ADOPT:

The new National Program Technican training guide is anticipated to come out the end of July 2017.

Resolution 25

CONCERN:

With limited type 60 money, consideration needs to be given to allowing real estate evaluations.

PROPOSED SOLUTION:

For all loans that are secured by RE as primary collateral and the total transaction will be less than \$50,000, allow real estate evaluations as can currently be done for ML-FOs.

REASON FOR NON-ADOPT:

Per 3-FLP paragraph 95A, this is already allowed.

Resolution 26

CONCERN:

5-FLP Par. 145 states "...repayment period from the original loan date may not exceed the maximum number of years for the type of loan being re-amortized as set forth below..." then it goes on to state that "FO, SW, RL, EE real estate type, and EM loans made for real estate purposes may not exceed 40 years from the date of the original note..." It doesn't appear to restrict DP loans to 20 years however EDALRS defaults to remaining years left to 20 years from original note date. It is a field that can be edited however.

PROPOSED SOLUTION:

Want clarification in 5-FLP regarding max term available for DP FO loans. Is it 20 or 40 years from date of original note?

REASON FOR NON-ADOPT:

Handbook states that a FO loan, regardless of the type of FO, will not exceed 40 years from the date of the original note, making clarification unnecessary.

Resolution 27**CONCERN:**

Farm Assessment and Credit Presentation

PROPOSED SOLUTION:

Consolidate to limit redundancy to Increase productivity

REASON FOR NON-ADOPT:

Each serves a different purpose and limiting redundancy is a burden that the Agency Official completing the FBP bears.

Resolution 28**CONCERN:**

The NRCS-CPA-026E is completed by Farm Number and Tract Number and provided to producer name and address at the time of determination. This determination will follow the land, not the producer. To provide an actual NRCS-CPA-00026E to another producer that assumes the land at a later date will violate PII. However, any and all NRCS determinations are provided to individual producers associated with particular tract of land using only their PII information on the Producer Data Report.

To request a new determination every time land control changes will cause a burdensome workload on NRCS. To take DLS checklist item #AN00036 as it reads now literal and provide a NRCS-CPA-026E that was completed previously to another producer creates a willful violation of PII. NRCS-CPA-026E's have been completed since Sod Swamp ACT of the 1985 Farm bill. Producers have come and gone and the determinations provided have remained the same. Land determinations only change when fields are divided to the point that it nullifies the previous determination.

FSA loads all determinations made by NRCS from the NRCS-CPA-026E to the Farm number and tract number provided on the NRCS-CPA-026E in MIDAS for HEL determinations and CITRIX for wetland determinations, that information is attached to the aerial photograph replicated to Farm Record System and attaches to the Farm Data Report as it pertains to the Farm and Tract number that any particular producer is associated with. The determinations are available for review from each individual's Producer Data Report without disclosing other producer's personal information. Reduces duplication, conserves resources and reduces individual stress when a NRCS-CPA-026E is requested from NRCS and the request is denied.

PROPOSED SOLUTION:

Edit item #AN00036 on the DLS Checklist report to read Highly Erodible land and Wetland determination removing reference to NRCS-CPA-026E.

REASON FOR NON-ADOPT:

The information needed to make HEL and Wetland determinations should come from the Producer Data Report. If it says that the “determination is not complete”, it should be referred to NRCS, otherwise, utilize the “N/A” function within the checklist for this item.

Respectfully submitted by the 2016/2017 Farm Loan Program Committee.

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