

# Guaranteed Lender Training Meetings February 2016

Kansas Farm Service Agency - State Office - Manhattan, KS

Adrian J. Polansky, State Executive Director

Robert E. White - Farm Loan Chief

Shelly Wolf - Farm Loan Specialist

## ~AGENDA~

- **Farm Service Agency (Farm Loan Programs) Presenters:**
  - **Bob White, Farm Loan Chief**
  - **Shelly Wolf, Farm Loan Specialist**
- *Opening Comments*
  - *Discussion ~ Impact of the Current Ag Economy*
- *FSA Guaranteed Loan Narrative quality – how it makes or breaks an application request*
  - *Restructure vs new loan request ~ Security for the Loan ~ Cash Flow Feasibility*
- *FSA's Guaranteed Loan Servicing*
  - *Annual Financial Analysis and LOC Review Requirements*
  - *Emergency LOC advances vs Protective Advances*
  - *Bankruptcy*
  - *Loss Claims – 150 day rule and When to file an Estimated Claim*
- *Transferring a FSA Guaranteed Loan to the Secondary Market – A lender marketing tool*
- *FSA's Digital Signature Initiative – efficiency in the 21<sup>st</sup> century*
- **Farm Service Agency (Farm Programs) Presenters:**
  - **Local County Executive Director**
    - *Overview of FSA ARC-PLC Farm Program Benefits*
    - *Overview FSA Noninsured Crop Disaster Assistance Payment*
- **Other Partners with Farm Service Agency:**
  - *Rural Development Programs*
  - *Small Business Administration Programs*
  - *Kansas Agricultural Mediation Services*



February 2016

Bob White, Farm Loan Chief – USDA – KS Farm Service Agency

**Notes ~**

Reflections on past commodity price charts:

US net Returns to Farm Operators:

US Farm Capital Investments:

US Farm Debt at Commercial banks:

Where do we go from here?

FSA's Consideration in Cash Flows...

FSA Credit Tools –

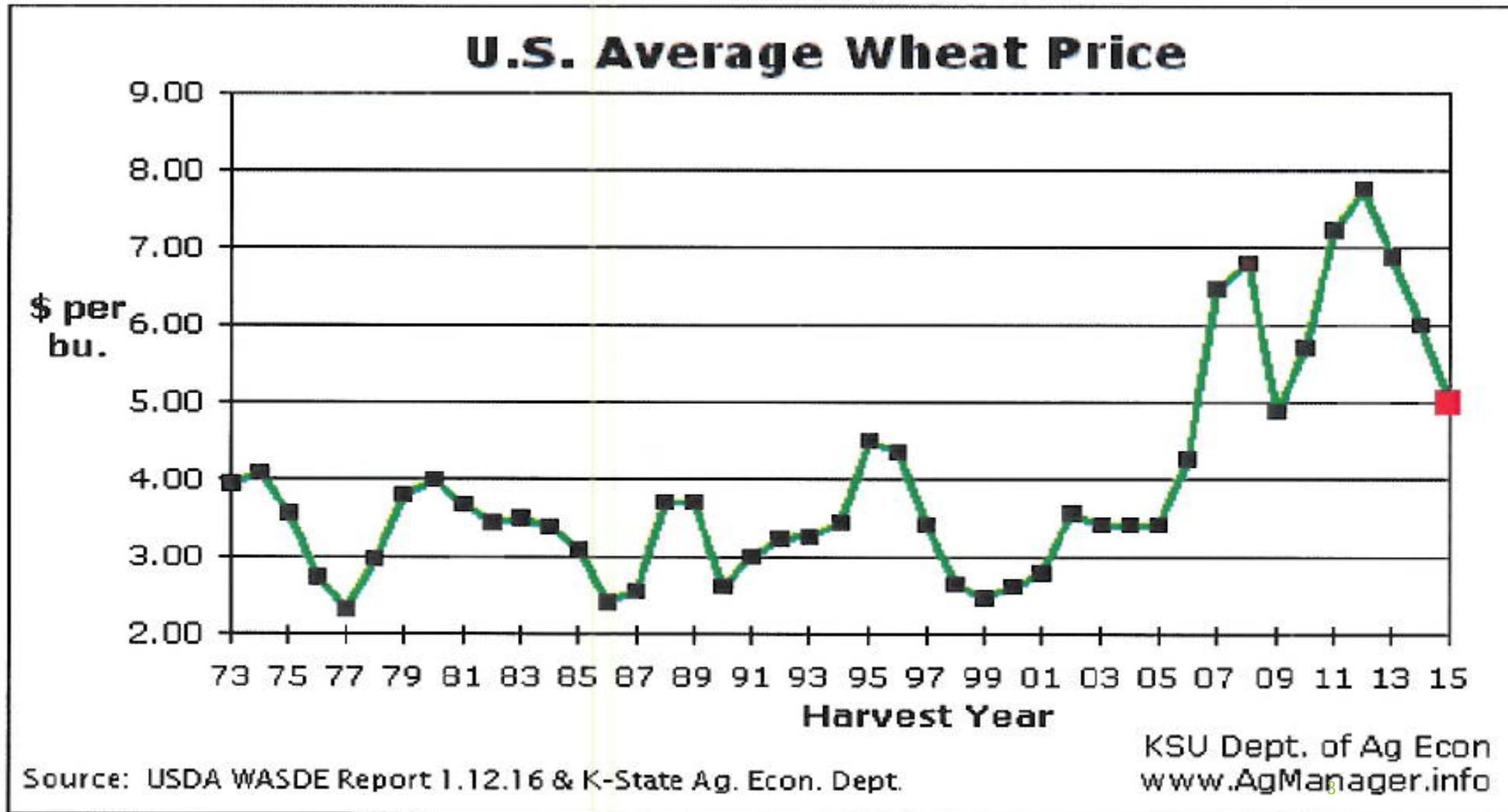
Communication is Critical!

What is the Current Status of the  
Ag Economy??

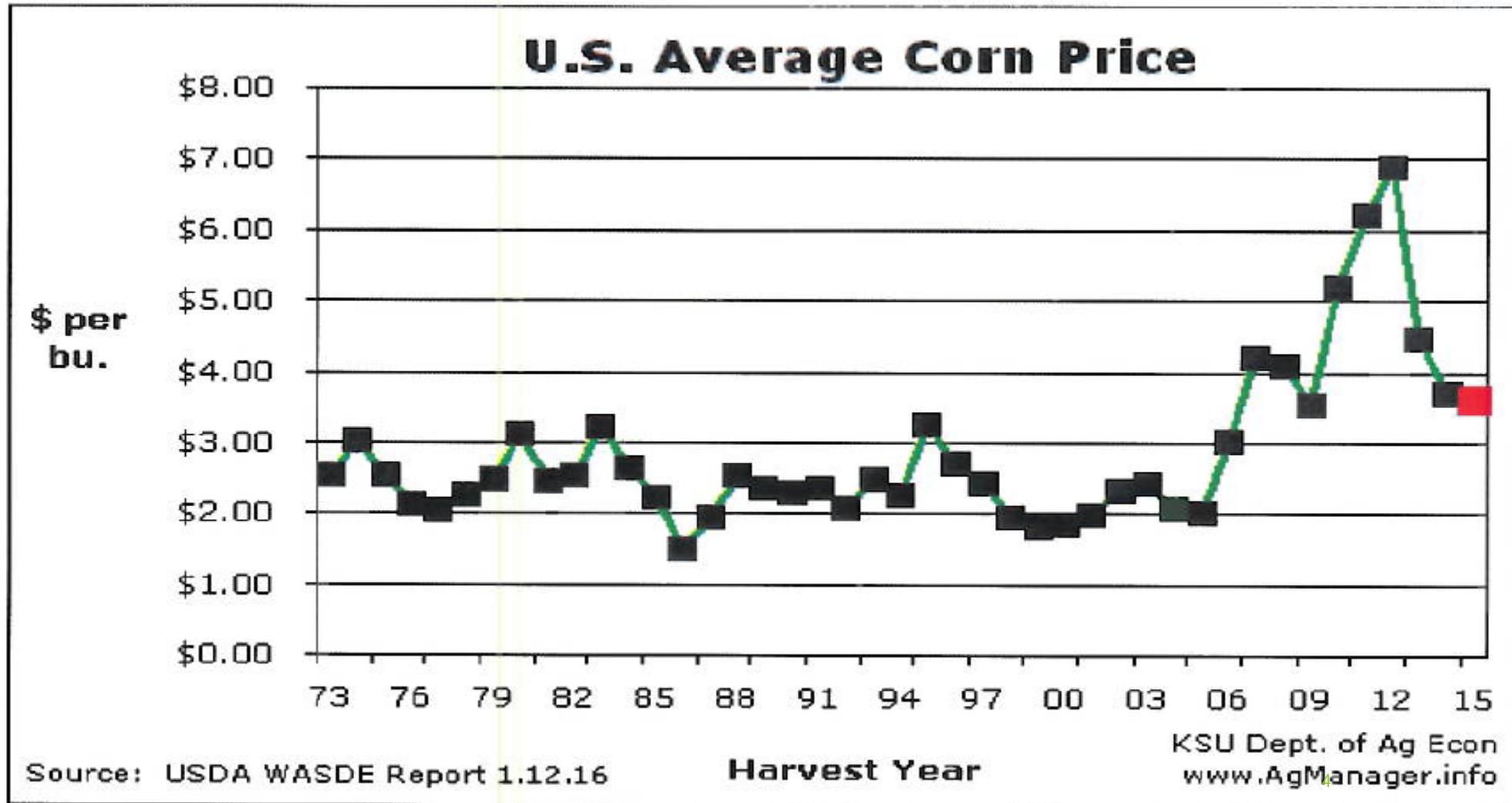
As Ag Lenders, How Does the  
Current Ag Economy Impact  
Ourselves and Our  
Customers?



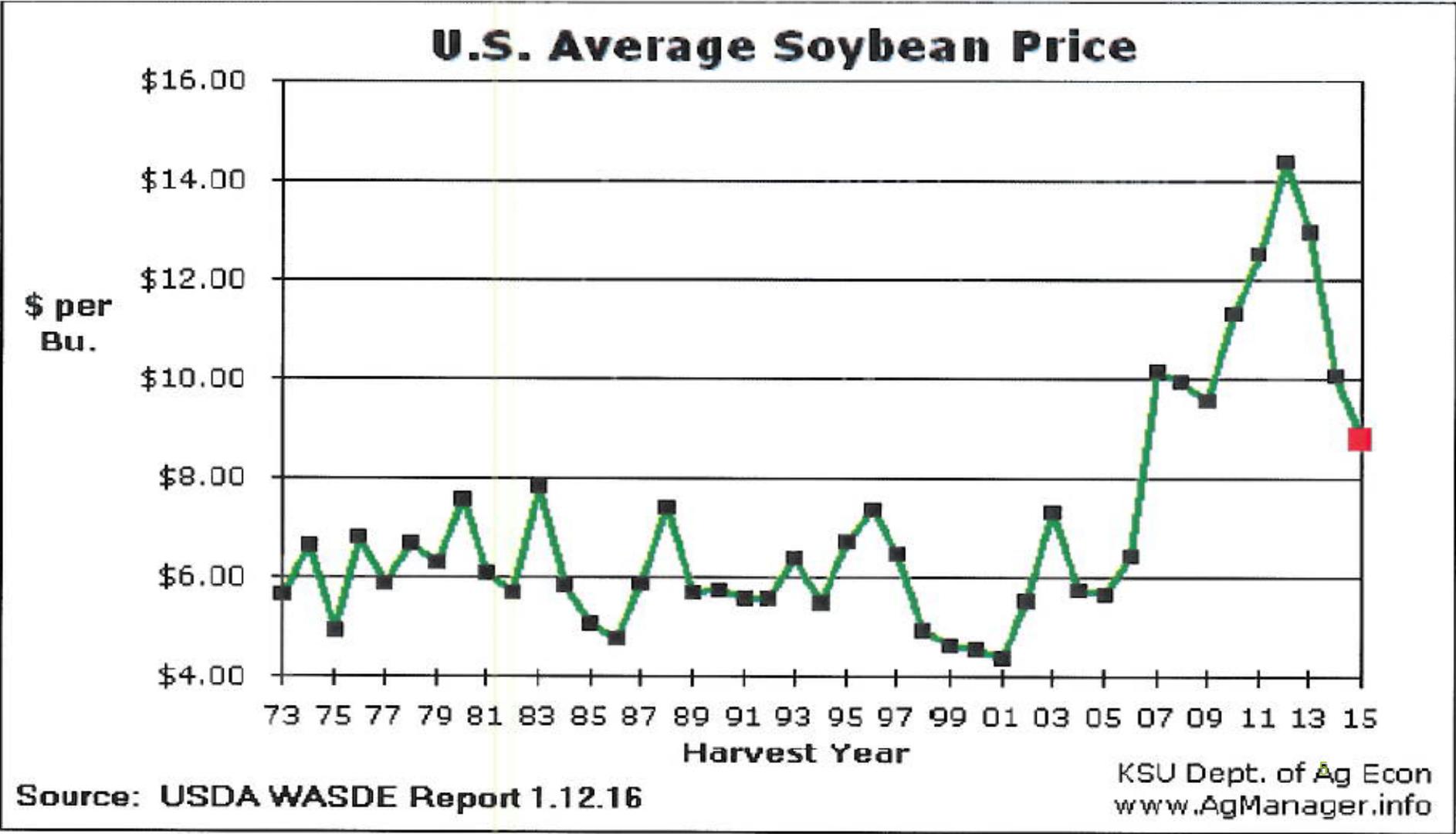
# Wheat Price Chart



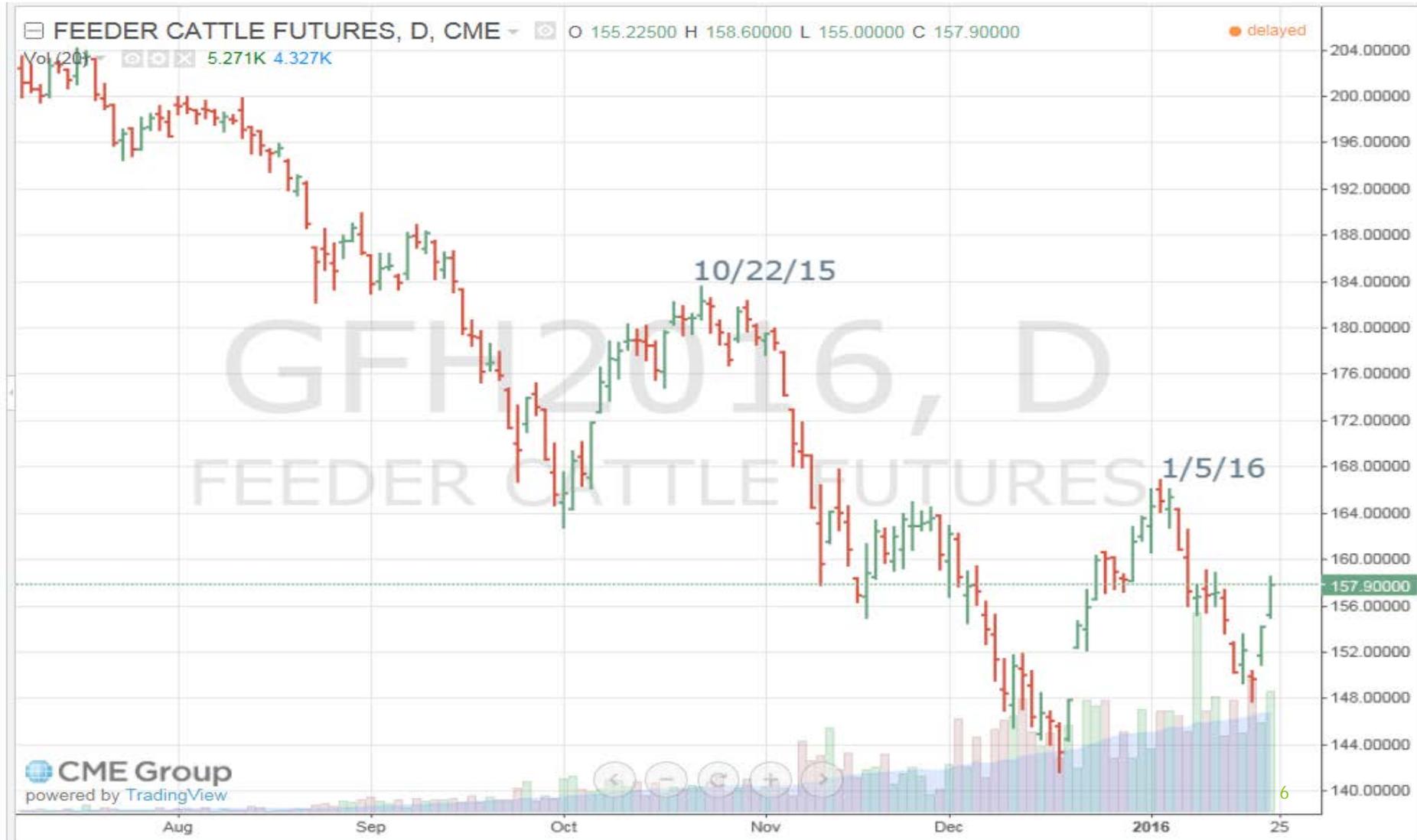
# Corn Price Chart



# Soybean Price

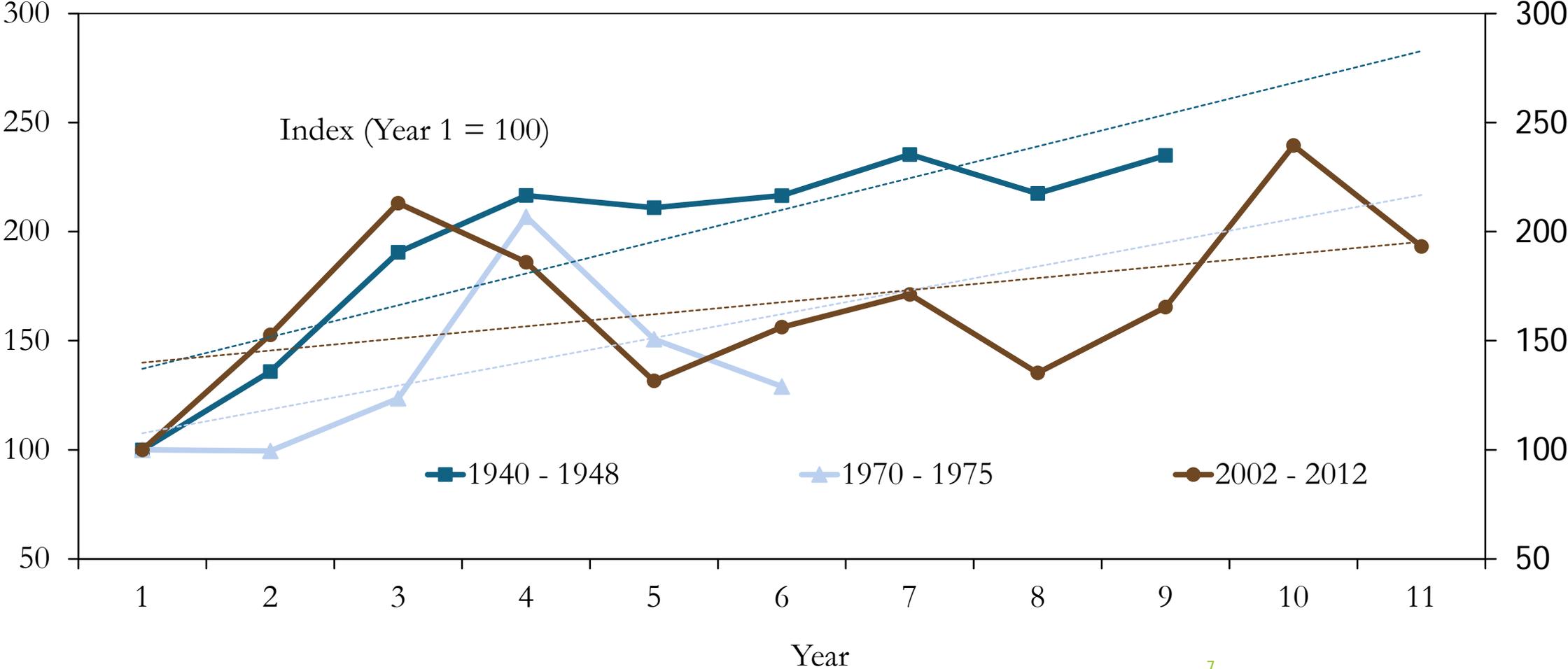


# Feeder Cattle Futures



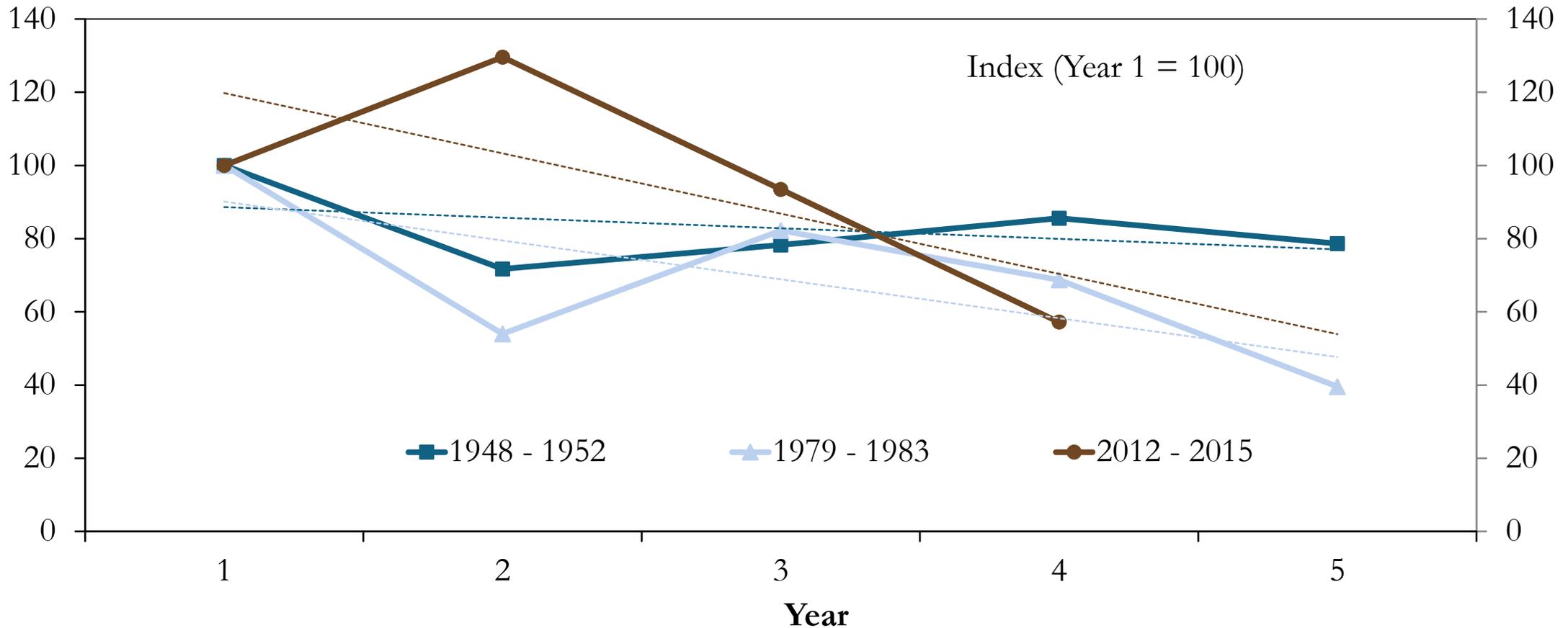
# Profits Strengthen (1940s, 1970s, 2000s)

## U.S. Net Returns to Farm Operators



# Profits Fade -- Working Capital Erodes

## U.S. Net Returns to Farm Operators

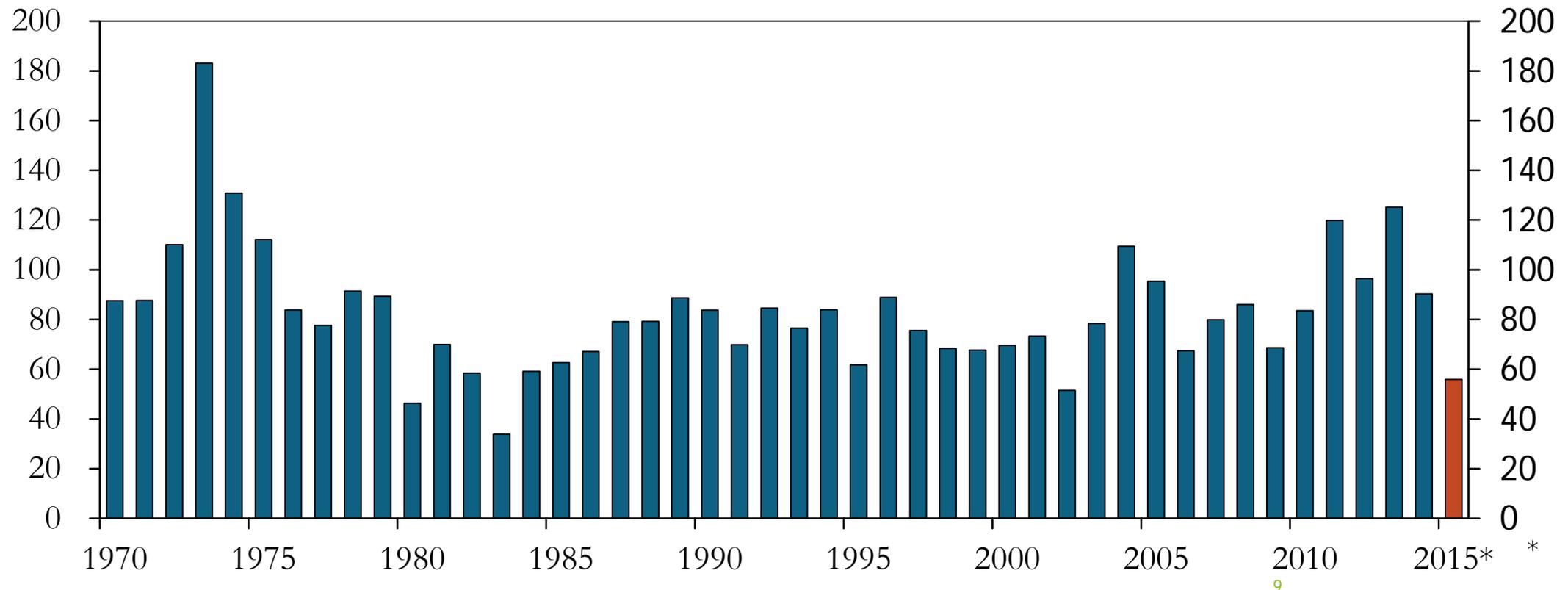


Source: USDA and author's calculations

# The Short-Term Outlook for Agriculture Shifted Considerably in 2015

## U.S. Real Net Farm Income

Billion dollars (constant 2015 dollars)

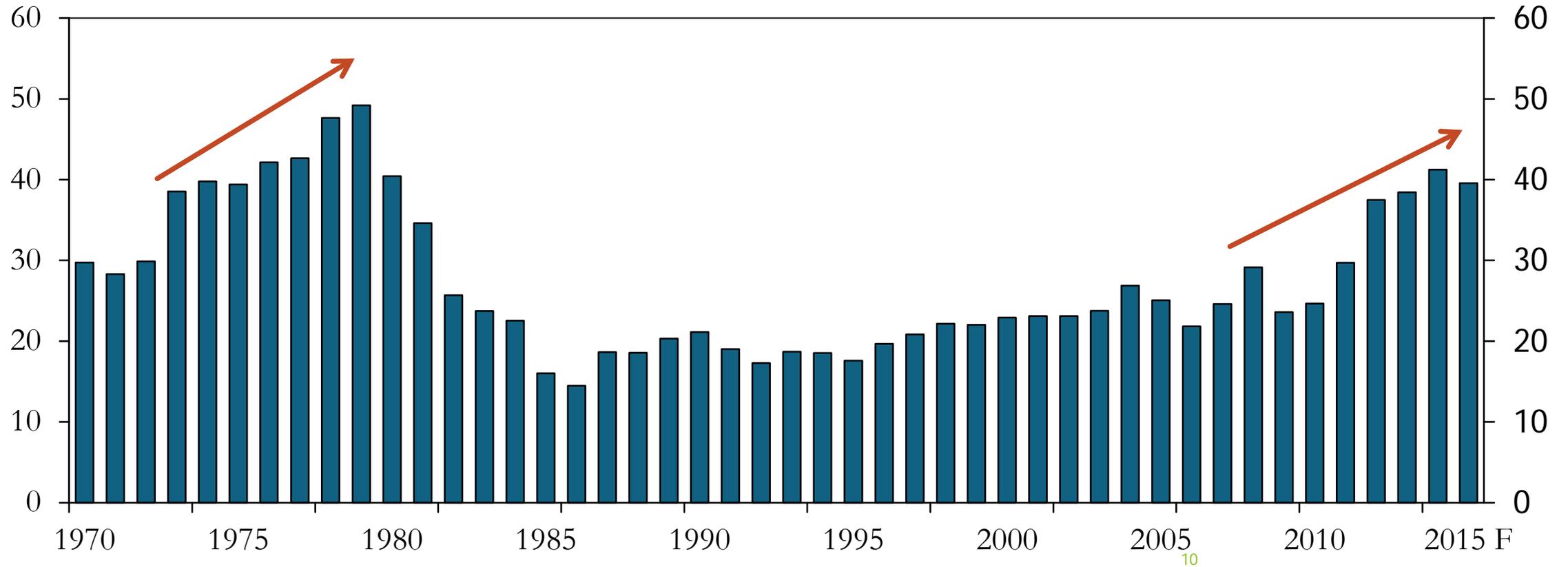


Source: USDA \* Forecast for 2015.

# Capital Investments Accelerate

## U.S. Farm Capital Investments

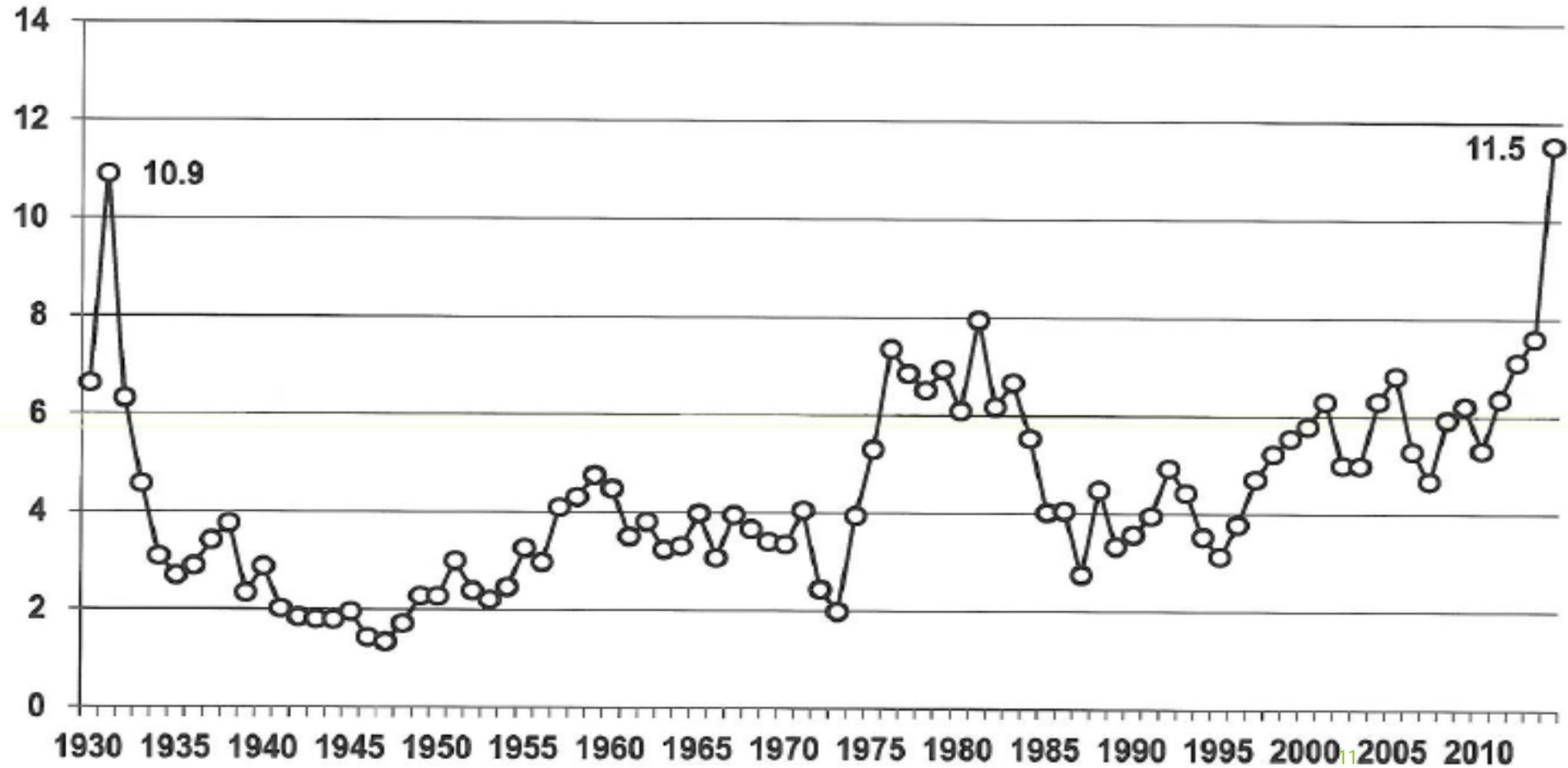
Thousand Dollars (2009 Dollars)



Source: USDA

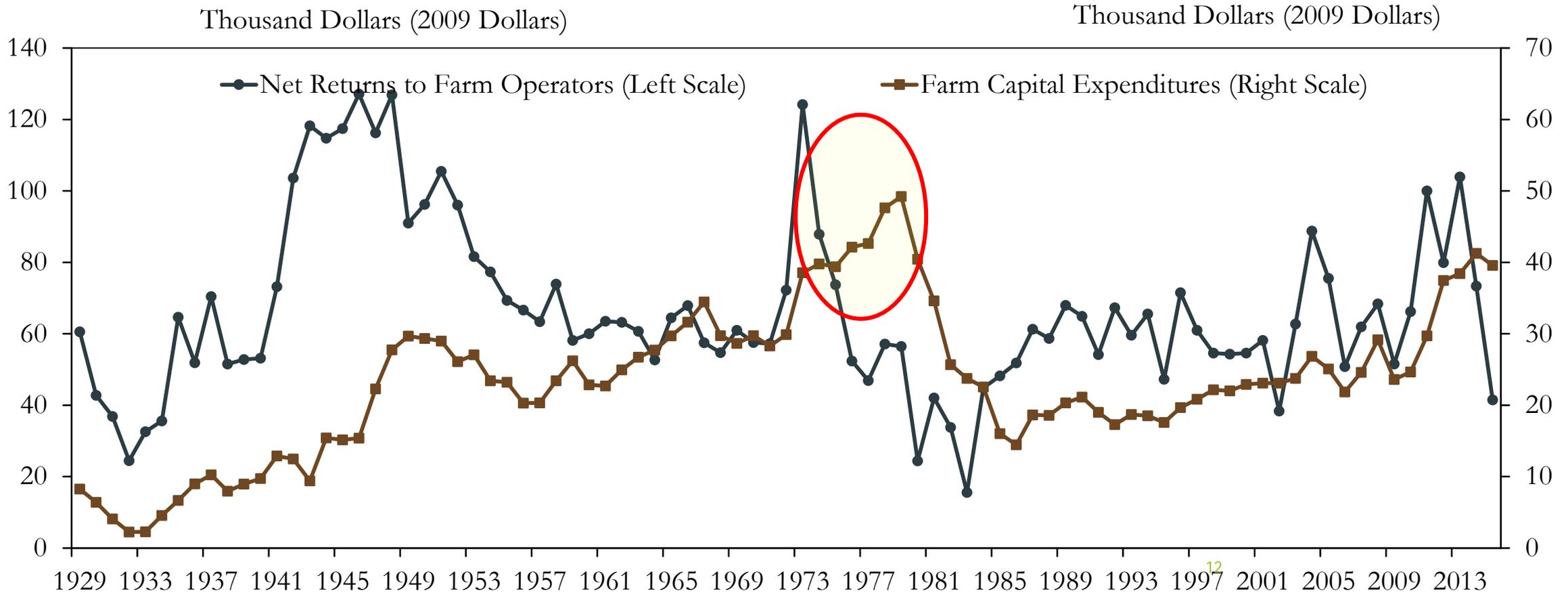
# Years of Yield per Acre

\$ per acre / \$ per bushel / yield per acre



# Elevated capital spending persists, supported by wealth, and financed with debt

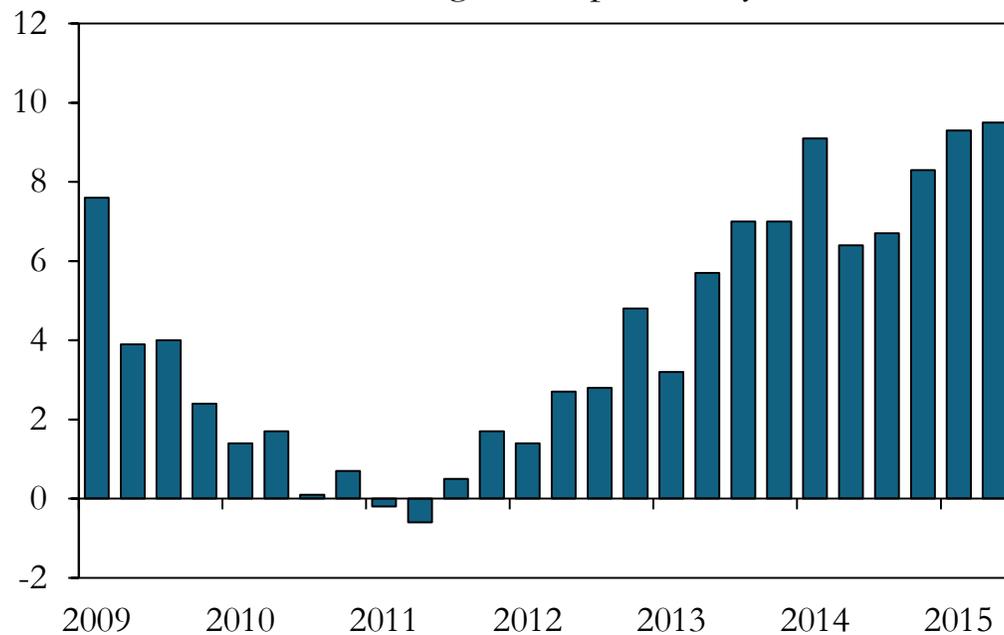
## U.S. Farm Profits and Capital Investments per Farm



# Weaker profits and reduced cash flow have boosted short-term lending needs

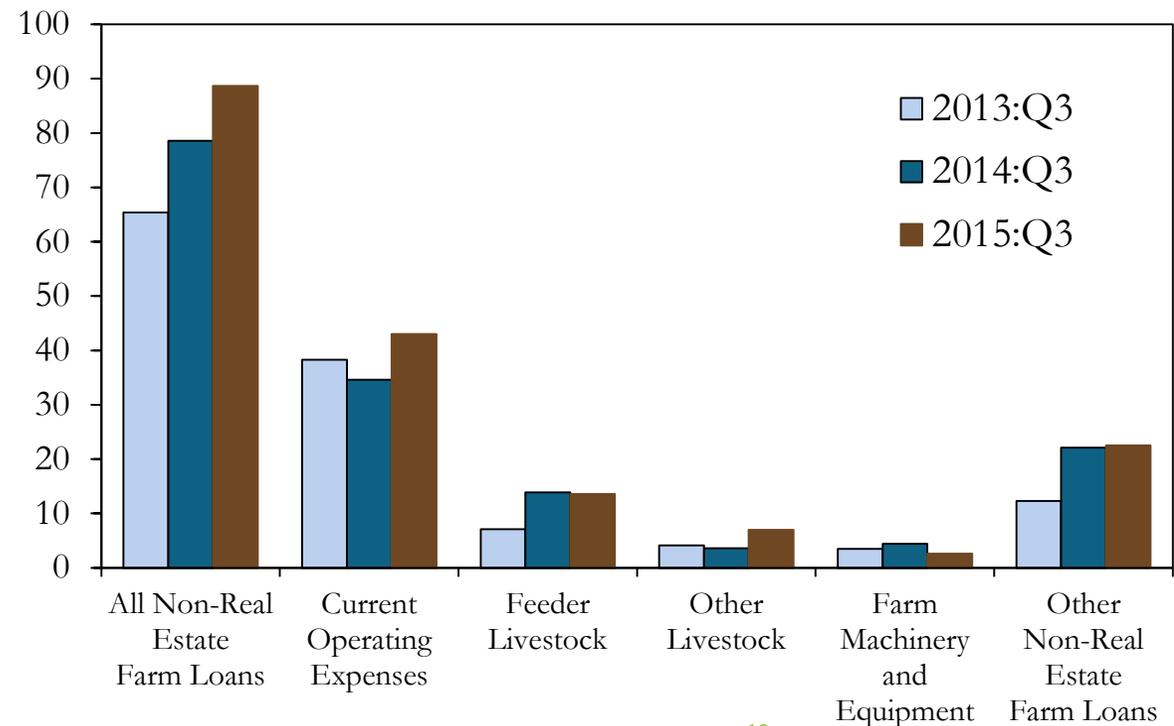
## U.S. Farm Debt Outstanding at Commercial Banks

Percent change from previous year



## U.S. Non-Real Estate Farm Loan Volumes

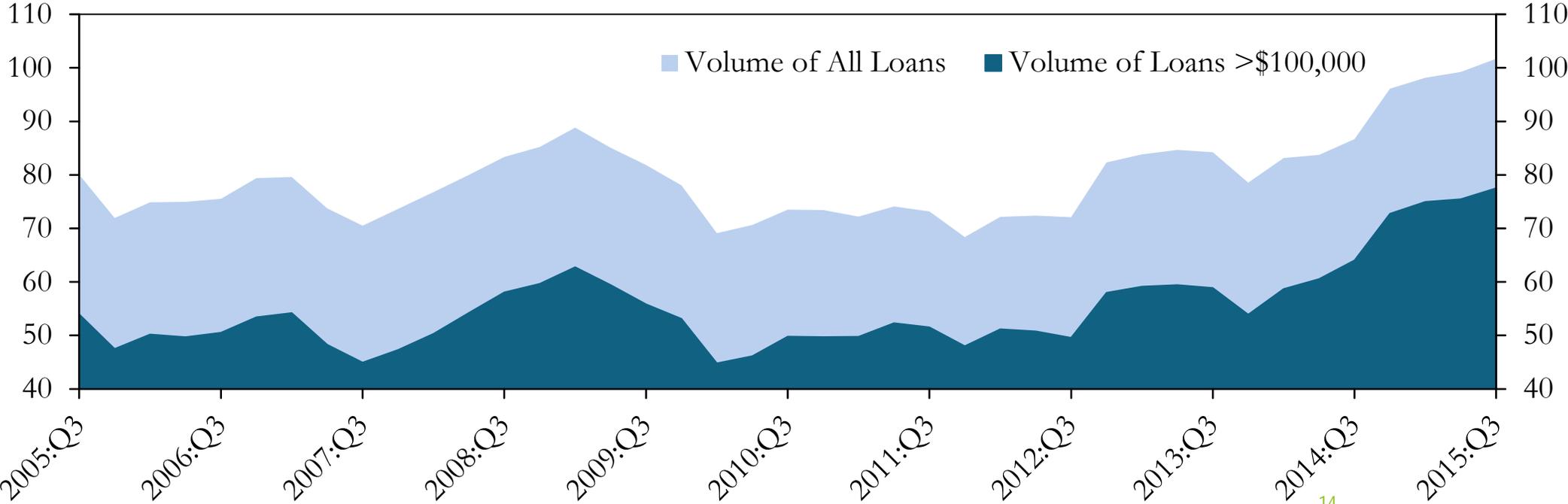
Billion Dollars



# Large loans also now account for a much higher share of total loan volume

## Volume of Non-Real Estate Loans at Commercial Banks

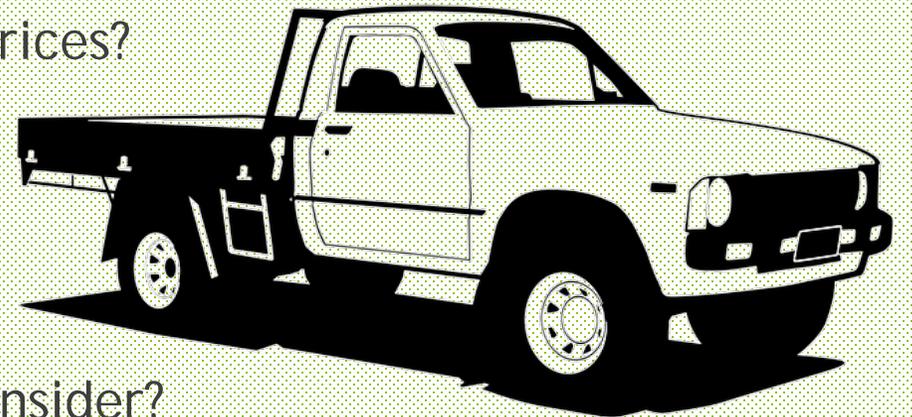
Billion Dollars (in 2014 Dollars)



Source: Federal Reserve Bank of Kansas City, Agricultural Finance Databook

# Where Do We Go From Here?

- ▶ Will Grain and Livestock Prices go Lower? Higher? Stay Here?
- ▶ Will Ag Input Costs Fully Adjust to Offset Commodity Prices?
- ▶ Will Machinery and Land Prices Decline (further)?
- ▶ What Options Will Our Customers Have Available to Consider?
- ▶ As Ag Lenders, What Options Should We Be Considering?



# Factors FSA Intends to Consider Regarding Cash Flows



- ▶ Was the operation profitable when we had higher commodity prices?
- ▶ Is net worth earned or appreciated?
- ▶ Can cash or crop share lease arrangements be re-negotiated?
- ▶ Can other input costs be reduced?
- ▶ Can living expenses or other non-farm expenses be cut?
- ▶ Is additional non-farm income or other farm income available?
- ▶ Can unprofitable / minimally profitable land or machinery be liquidated?
- ▶ Is it possible to move short or intermediate term debt to long term?

# Many of our customers have never experienced a significant Downturn

- ▶ 63% of FSA Direct loan Borrowers are classified as Beginning Farmers (had farmed for 10 years or less at the time of their application)
  - ▶ (2,015 Beginning Farmers of 3,211 total)
- ▶ 32% of FSA Guaranteed loan Borrowers are classified as Beginning Farmers
  - ▶ (303 Beginning Farmers of 956 total)



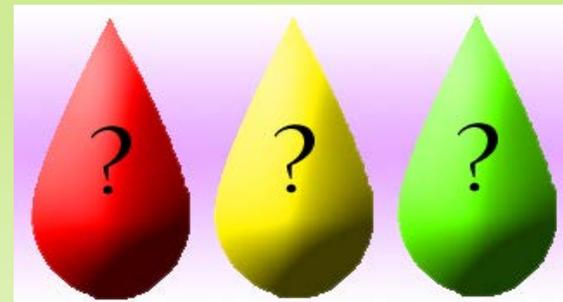
# Farm Service Agency Credit Tools

- ▶ **Guaranteed Loans**
  - ▶ Existing Term Loans
  - ▶ Move Intermediate Debt to Long Term
  - ▶ Term out Carry-Over Losses
  - ▶ Line of Credits
- ▶ **Direct Loans**
  - ▶ Refinance Creditors With Operating Loan Funds (Maximum 7 year note, 21 year amortization; \$300,000 loan limit)
  - ▶ Provide Annual Operating Credit
  - ▶ Restructure Existing Direct FSA Loans



# Communication Is Critical

We look forward to working with yourselves and your customers, as we negotiate these economic times.



# Loan Narrative Preparation

- ▶ The old adage “Quality over Quantity” holds true for Farm Service Agency when it comes to the Loan Narrative submitted with a FSA guaranteed loan application.
  - ▶ All lenders MUST provide a loan narrative with their Guaranteed Loan Application ([FSA Form 2211 or 2212](#)). Preferred Lenders (PLP) may be able to submit something other than a formal written loan narrative. PLP requirements are individualized and described in the lender’s Credit Management System Summary (CMS).
  - ▶ The loan narrative requirements are considered the lender’s underwriting of the loan. The narrative provided should not be a summary of the operation but rather a discussion of several items. An outline of the discussion items expected are found in [2-FLP Handbook, paragraph 66 C](#).
  - ▶ Let’s review items in the handout .....

## Lender's Loan Narrative: Content and Level of Detail

The following is a summary of the content that should be in a typical loan narrative, factors to consider, common errors and omissions, and applicable 2-FLP references. This document is not meant to be all inclusive, but is provided to assist both lenders and FSA personnel in preparing proper loan narratives. All guaranteed loan requests must include a lender's loan narrative and this narrative must address the items found in 2-FLP, subparagraph 66-C, the 5 "Cs" of credit. The narrative should be an evaluation of the data related to the guaranteed loan request, not just a summary or restatement of data found on the guaranteed loan application or other submitted documents. It should include a discussion behind the numbers, for example, whether a number or ratio is strong or weak depending on the type of farming operation and the stage in the business cycle. The narrative should describe the farming operation's weaknesses, and provide details on the mitigating strengths.

The loan narrative must include sufficient detail to provide the FSA loan approval official with the information required to ensure the guaranteed loan applicant meets the eligibility requirements, the applicant's proposed operation is viable, and the proposed security for the loan is sufficient to adequately secure the loan. The level of detail necessary in the lender's loan narrative is determined by a variety of factors - including the management structure of the farming operation, loan type and purpose, and type of lender. If the lender's loan narrative does not provide sufficient detail, the loan approval official should notify the lender of the additional details needed to evaluate the loan request.

**Every guaranteed loan application is unique, and therefore the level of detail that is required in the lender's loan narrative will vary.** For example – a loan narrative for an existing FSA Farm Loan Program (FLP) customer may be less detailed than an application for a new customer refinancing the lender's existing debt. FSA officials are to use judgment in determining the appropriate level of detail in the lender's loan narrative.

## Lender's Loan Narrative: Content and Level of Detail

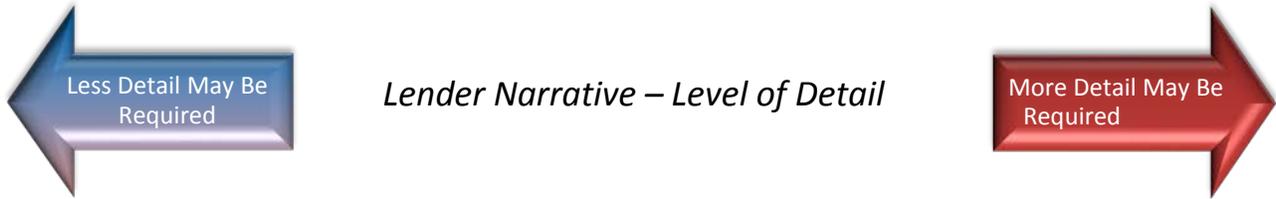
### Description of Farming Operation:

Lender to describe the farming operation, including:

- A description of the farming operation, including the type of farming enterprises (For Example: *Joe and Jane Farmer operate a 500 acre farming operation in Dodge County, KS. They grow corn and soybeans, and have a small 25 beef cow-calf herd*)
- A description of the operating structure:
  - Legal structure - Sole proprietorship, LLC, S Corporation, Partnership, etc.
  - For each entity member:
    - Full Legal Name
    - Address
    - Social Security Number
    - Percent ownership
    - Responsibilities in operation
- Key personnel and management structure. Information about the individuals that provide the management and labor to operate the farm on a daily basis; relationship to applicant, relevance to the operation, adequacy to operation, etc.
- Adequacy of real estate, equipment and other facilities (For Example: *Joe and Jane Farmer own 200 acres of real estate and rent an additional 310 acres of cropland. The farmstead consists of their home, grain storage, machinery storage, and housing for their beef cattle. They own a well-maintained line of machinery. The real estate, facilities, and equipment are adequate for their needs.*)
- Description of the location of all land to be farmed
  - This may be obtained from the FSA County Office – Farm Loan Program via Farm Program reports. If provided by FSA, the lender should ensure they secure a copy in their loan docket.
- Short-term and long-term goals of farming operation
- Proposed changes to the farming operation
- Description of any environmental issues or impact
  - *What are the lender's responsibilities?*
    - *Perform initial site visit and due diligence (make mention in narrative)*
    - *Answer 5 environmental questions on the application*
    - *Make sure loan purpose and type of operation is clear*
    - *Communicate any possible issues to FSA*
    - *Make sure the applicant has Form AD-1026 on file with the local FSA County Office where their farm HQ is located.*

## Lender’s Loan Narrative: Content and Level of Detail

### Description of Farming Operation (continued):



Existing guaranteed or direct loans	No existing guaranteed or direct Loans
FO loan	OL or LOC loan
No debt refinance	Debt refinance
Traditional farming enterprises	Multiple and/or non-traditional farming enterprises
Sole-Proprietorships or Joint Operations	Partnerships, LLCs, Embedded Entities, etc.
No changes in farming operation	Changes in farming operation
Balance sheet, cash flow projection, and financial and production histories are part of application	More detail may be required if balance sheet, cash flow projection, financial or production histories are not part of application

### **Common Errors and Omissions:**

- Insufficient detail to determine if applicant is the actual operator of a family size farm
- Insufficient detail concerning the members of an entity applicant
- Short-term and long-term goals of the farming operation

*2-FLP References: Par. 66-C, 66-I, 67-A, 70-B, 108-M (Operator Requirement), 109 (OL), 110 (FO), 111 (OL and FO Entity Applicants), 112 (CL)*

## Lender’s Loan Narrative: Content and Level of Detail

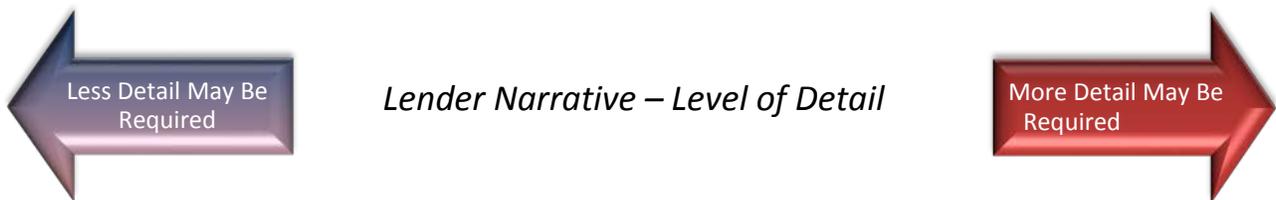
### Applicant Eligibility:

Lender to address the following applicant eligibility requirements:

- Has an acceptable credit history
- Is a citizen of the U.S., a U.S. non-citizen national, or a qualified alien (*Only if applicant is a U.S. non-citizen national or qualified alien*)
- Additionally, the Lender should discuss the need for the guarantee (ie: applicant needs longer terms given under FSA’s guaranteed program; cannot provide borrower a loan without FSA guarantee, bank loan limits, etc.)

*NOTE: The following eligibility requirements typically **do not need** to be addressed in the lender’s loan narrative, since lender or applicant self-certifies on loan application and/or FSA loan official can check on status:*

- *Meets all requirements of prior FSA debt forgiveness*
- *Is not delinquent on any Federal debt*
- *Does not have any outstanding recorded judgments obtained by a Federal agency*
- *Has the legal capacity to incur the obligations of the loan*
- *Has not been convicted of planting, cultivating, growing, producing, harvesting, storing, trafficking, or possessing a controlled substance within the last 5 years*



Existing Guaranteed or Direct Loans	No Existing Guaranteed or Direct Loans
No Prior FSA Debt Forgiveness	Prior FSA Debt Forgiveness
No Debt Refinance	Refinance Debt
No Current or Recent Delinquencies	Current or Recent Delinquencies
Joint Operation, Sole-Proprietorship or Partnership	Entity
Credit Report - Part of Application	Credit Report – Not Part of Application

### Common Errors and Omissions:

- No discussion regarding delinquencies or other issues found on the credit report

*2-FLP References: Par. 66-C, 66-G, 67-A*

# Loan Evaluation with Loan Purpose

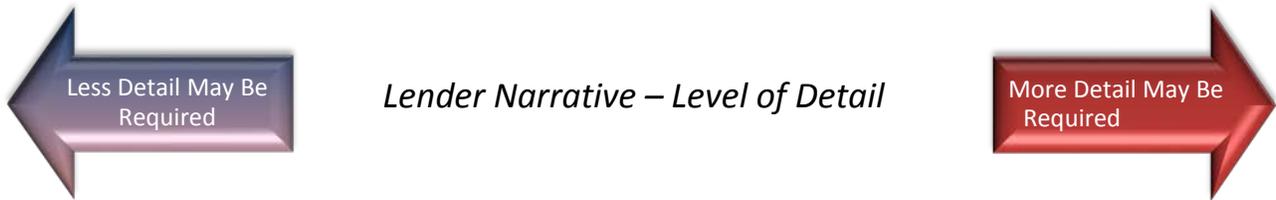
- ▶ Often times a lender may submit a new loan application as part of servicing their existing guaranteed loan(s) to consolidate with **new debt** to provide a total restructure of the operation.
- ▶ When a portion of a guaranteed loan is to be used to refinance a guaranteed debt that the lender has with the applicant, the lender shall ensure that rescheduling the note and alternative repayment schedules have been considered before requesting the new guarantee. Therefore, the lender must document in the loan narrative the problems with the operation and the need for a new guarantee.
- ▶ Refinancing debt that is already covered by a guarantee uses limited funding resources and causes the borrower to pay the guarantee fee a second time. (Par 123 B)
- ▶ When these types of requests are received, the FSA loan official will evaluate whether restructuring options (discussed later) will improve the borrower's cash flow and likelihood of success without refinancing the guaranteed debt.

## Lender’s Loan Narrative: Content and Level of Detail

### Loan Proposal:

Lender to adequately describe proposed loan, including:

- Description of loan type, amount, term, interest rate\*, and purpose, *(for loans containing a balloon payment, include loan renewal conditions)*
- If using risk based pricing, provide a statement that the rate charged the borrower is at least one tier below the rate the borrower would be charged without the guarantee.
- Description of any other proposed loans or loan restructuring (non-guaranteed, FSA direct loans, other), including loan type, amount, term, rate, purpose, and security



Equally amortized loan installments	Unequal loan installments and/or balloon payment
No debt refinance	Debt refinance
No plans to sell guaranteed portion of loan	Sell guaranteed portion of loan on secondary market

### Common Errors and Omissions:

- Insufficient detail on loans being refinanced *(Itemizing loan amounts, original purpose of those amounts, etc.)*

*2-FLP References: Par. 66-C, 67-A, 135 (interest rate), 137 (loan term and payment schedules)*

\*Notes for interest rate requirement:

The lender may charge different rates on the guaranteed and the non-guaranteed portion of the note, as agreed upon by the applicant. The guaranteed portion may be fixed while the unguaranteed portion may be variable, or vice versa. If both portions are variable different bases may be used.

If a variable interest rate is used, it must be tied to an index or rate specifically agreed upon between the lender and borrower in the loan instruments and the rate adjustments must be in accordance with normal practices of the lender for nonguaranteed loans. Lender should provide interest rate information on Form 2211 (SEL/CLP) or 2212 (PLP), the Application for Guarantee. Upon request, the lender must provide FSA with copies of its written rate adjustment practices.

## **[In Part] *from* Section 2 Loan Purposes and Limitations**

One FO Purpose is to refinance indebtedness incurred for authorized FO or OL purposes, provided the lender and applicant demonstrate the need to refinance the debt. (2-FLP Paragraph 123 B – Page 8-35 and 8-36)

It is noted that:

When the guaranteed loan is to be used to refinance an unguaranteed debt that the requesting lender has with the applicant, the authorized agency official must evaluate whether the terms of the proposed loan will improve the applicant's cash flow and likelihood of success.

When a portion of a guaranteed loan is to be used to refinance a guaranteed debt that the lender has with the applicant, the lender shall ensure that rescheduling the note and alternative repayment schedules have been considered before requesting the new guarantee.

Refinancing debt that is already covered by a guarantee uses limited funding resources and causes the borrower to pay the guarantee fee a second time.

When a guarantee that includes refinancing guaranteed debt is requested, the authorized agency official must evaluate whether restructuring options described in 7 CFR 762.1945 (Part 12, Sections 2 and 3) will improve the borrower's cash flow and likelihood of success without refinancing the guaranteed debt. If restructuring results in substantially the same likelihood of success, refinancing of the guaranteed debt will not be considered.

Refinancing guaranteed debt shall not be requested just to consolidate the existing guarantee debt with a new request.

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Even though these statements are under the FO loan purposes; **2-FLP Paragraph 121 B**, for Term OL purposes with regard to refinancing also states:

“Refinancing indebtedness incurred for any authorized OL purpose, when the lender and applicant can demonstrate the need to refinance.”

FSA does suggest considering and utilizing rescheduling and other servicing options before using new funds to refinance existing any guaranteed loan. In some cases, with similar loan types, loans may be considered for consolidation.

Note: An OL for Line of Credit (LOC) purposes may only be used for payment of current annual operating debts advances for the current operating cycle. Under no circumstances can carry-over operating debts from a previous operating cycle be refinanced.

**(2-FLP Paragraph 122 F)**

# Security for the Guaranteed Loan

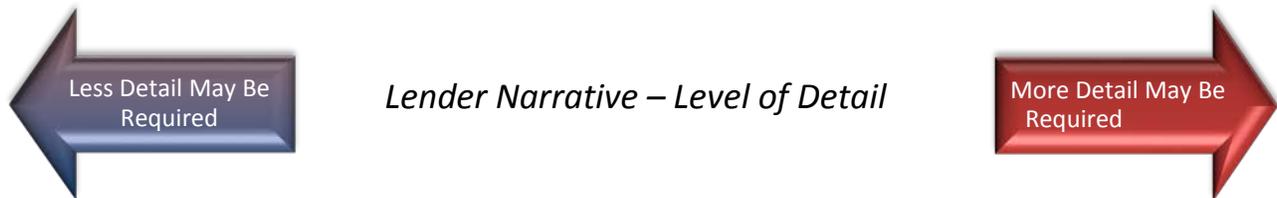
- ▶ The lender is responsible for ensuring that proper and adequate security is obtained and maintained to fully secure the loan, protect the interest of the lender and the Agency, and assure repayment of the loan or line of credit.
- ▶ Lenders must obtain the lien position proposed in the application for each security item and perfect each lien.
- ▶ A 1:1 loan to value ratio is not adequate when additional security is available.

## Lender's Loan Narrative: Content and Level of Detail

### Collateral Analysis:

Lender to adequately describe security for proposed loan, including:

- Assessment of the adequacy of the security being offered to secure the proposed loan
- Any additional details or clarification on the security value and proposed lien position not apparent on the loan application
- Method used to establish the market value of the security - evaluation or appraisal



First lien	Shared or junior lien
Real estate security	Chattel or crop security
Appraisal or evaluation submitted with application	Appraisal or evaluation not submitted with application

### Common Errors and Omissions:

- No mention of method used to establish security value
- Insufficient details on prior liens of proposed security

*2-FLP References: Par. 66-C, 67-A, 166 (amount and quality of security), 181 (appraisal requirements), 182 (chattel security), 183 (real estate security)*

**Subsection 2 Security of the Loan****166 Amount and Quality of Security (7 CFR 762.126)****A Purpose**

The lender is responsible for ensuring that proper and adequate security for the guaranteed loan is obtained and maintained. Lenders must obtain the lien position proposed in the application for each security item and perfect each lien. This paragraph explains the guidelines FSA will use in evaluating whether the lender has proposed adequate security for the guaranteed loan.

**B Adequate Security**

**The lender is responsible for ensuring that proper and adequate security is obtained and maintained to fully secure the loan, protect the interest of the lender and the Agency, and assure repayment of the loan or line of credit.**

**The lender will obtain a lien on additional security when necessary to protect the Agency's interest.**

The lender must determine the amount of security required to adequately secure a loan. At a minimum, FSA requires the value of the security to be at least equal to the loan amount. However, more security will be taken whenever it is available. A 1:1 loan to value ratio is not adequate when additional security is available. The adequacy of security will be judged in consideration of the total security available, prior liens, and the lender's normal practices. More security may be required if the quality of the security is low, cash flow is below average, production capability is suspect, management history is limited, or enterprise is not firmly established or is atypical for the area.

**All security must secure the entire loan or line of credit. The lender may not take separate security to secure only that portion of the loan or line of credit not covered by the guarantee.**

**The lender may not require compensating balances or certificates of deposit as means of eliminating the lender's exposure on the unguaranteed portion of the loan or line of credit. However, compensating balances or certificates of deposit as otherwise used in the ordinary course of business are allowed for both the guaranteed and unguaranteed portions.**

**166 Amount and Quality of Security (7 CFR 762.126) (Continued)****B Adequate Security (Continued)**

To evaluate the quality and overall adequacy of the proposed security, the authorized agency official should evaluate the lender's analysis of the security and the applicant's financial position. The authorized agency official may determine that more security is required to protect FSA's interests based on the answers to the following questions.

- \*--Is the value of the basic security at least equal to the proposed loan amount?--\*
- Is additional security available?
- Is this a specialized operation with limited sale opportunities?
- What is the age, durability, probable depreciation rate, and life of the security and how does this compare to the term of the loan?
- \*--What is the proposed lien position on the basic security?--\*
- Is the applicant's net worth high or low compared with their total liabilities, including the proposed amount of the loan or LOC?
- Does the applicant have a strong cash flow position and high profitability?

**C Security Requirements for SEL's and CLP and PLP Lenders**

The type of lender has no bearing on the type or amount of security required to adequately secure a loan. The authorized agency official should evaluate the proposed security for loan applications from SEL's and CLP and PLP lenders using the same evaluation criteria.

**167 Identifiable Collateral (7 CFR 762.126(c))****A Purpose**

All of the collateral must be identifiable. This paragraph describes the guidelines for evaluating whether the security obtained for a guaranteed loan is identifiable.

**B Identifiable Security**

**The guaranteed loan must be secured by identifiable collateral. To be identifiable, the lender must be able to distinguish the collateral item and adequately describe it in the security instrument.**

Guaranteed loans must be secured by collateral that can be distinguished from other collateral items and can be adequately described in security instruments.

**Example:** A tractor described by its make, model, year, and serial number is identifiable collateral, while a truck that is only described as “flat-bed truck” is not identifiable collateral.

**C Equipment**

Equipment should be identified by manufacturer, model, year, and serial number, where available. If this information is not available, the lender should provide a sufficient written description of the equipment so that it is easily identifiable.

**D Livestock**

Livestock taken as security will be fully described, including breed, age group, and type, and will indicate the numbers in each group. This provision allows the farmer to perform routine culling and replace livestock without obtaining a release of security. The lender is responsible for ensuring that the borrower maintains the livestock numbers by periodically monitoring the livestock on the farm and ensuring that liens have not been provided to other creditors.

Particularly high value livestock can be appraised as such if the animals are clearly identified, monitored, and accounted for.

**E Real Estate**

Real estate can be identified using tax lot and block numbers, full metes and bounds, or rectangular survey description or similar system. A survey is not required if the property is adequately described and determined unnecessary by the lender’s internal lending policy.

**168 Type of Security Required by Type of Loan (7 CFR 762.126(d))**

**A Purpose**

The type of security obtained for a loan must be appropriate to the type of loan, and the loan terms must be consistent with the useful life of the security. This paragraph describes the guidelines for evaluating whether the type of security is appropriate for the proposed loan.

**B Security Requirements**

**Guaranteed loans may be secured by any property if the term of the loan and expected life of the property will not cause the loan to be undersecured.**

Typically, annual operating loans will be secured by crops and livestock, loans to be repaid within 2 to 7 years by breeding livestock and equipment, and loans repaid over greater than 7 years by real estate.

**For loans with terms greater than 7 years, a lien must be taken on real estate.**

The guidelines for short-, intermediate-, and long-term loans are as follows.

<b>Loans</b>	<b>Guidelines</b>
Short-term	Annual OL's should be secured at least by crops and livestock that will generally be sold during the term of the loan.
Intermediate-term	OL's should be secured by collateral that has a life expectancy at least as long as the loan. Loans to be repaid over a 2- to 7-year period should be secured by breeding livestock and equipment. The lender should evaluate the equipment proposed to be used for security to ensure that it will not depreciate faster than the loan is repaid.
Long-term	Loans scheduled to be repaid over more than 7 years must be secured by real estate. Anticipated depreciation of the improvements must be considered when establishing terms.

# Discussion of Cash Flow Feasibility in the Narrative

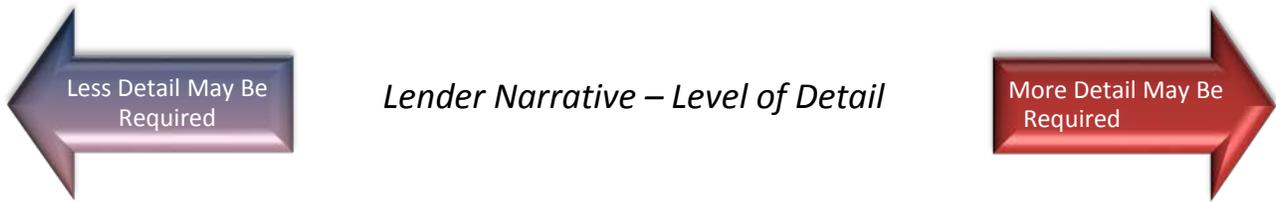
- ▶ All lenders must follow the guidelines listed in **2-FLP Par 151-154** “Determining Financial Feasibility of Loans”. Most lenders will provide FSA with a projected annual typical year plan when loan terms exceed the current year. Preferred (PLP) lender may submit loan analysis packages ie: Web Equity.
- ▶ A feasible plan has a debt margin that is greater than or equal to 1 to 1 or 100%
- ▶ In the lender’s loan narrative the following must be documented:
  - ▶ The method used to project income / expenses (farm and nonfarm)
  - ▶ Provide an explanation of any deviations from historical performance
- ▶ The lender’s cash flow budget and discussion in the loan narrative must:
  - ▶ Reflect as closely as possible, the predicted cash flow of the operating cycle.
  - ▶ Match the borrower’s tax year
  - ▶ Discuss implications associated with cash carryover, accounts payable, cash capital purchases and personal debt obligations

## Lender’s Loan Narrative: Content and Level of Detail

### Capacity Analysis:

Lender to adequately describe repayment capacity, including:

- Discussion of applicant’s projected cash flow (*Deviations from previous history, strengths and weaknesses. Address any changes in the pro-forma capacity not shown in the cash flow details.*)



High debt repayment margin	Low debt repayment margin
FO	OL or LOC
Established farmer	Beginning farmer
Balance sheet, cash flow projection, and financial and production histories are part of application	Balance sheet, cash flow projection, financial or production histories are not part of application

### Common Errors and Omissions:

- Failure to adequately discuss changes in the operation
- Failure to address deviations in history in comparison to the proposed cash flow
- Failure to address how projected yields were arrived at
- No discussion of non-farm debt, family living expenses and/or income
- No discussion of how “other farm income” was projected
- Omission of planning for adequate income and social tax liabilities in the projections
- Listing the FSA Guarantee as an offsetting strength to compensate for a weakness in capacity. Strength should be another credit factor such as capital, or management ability

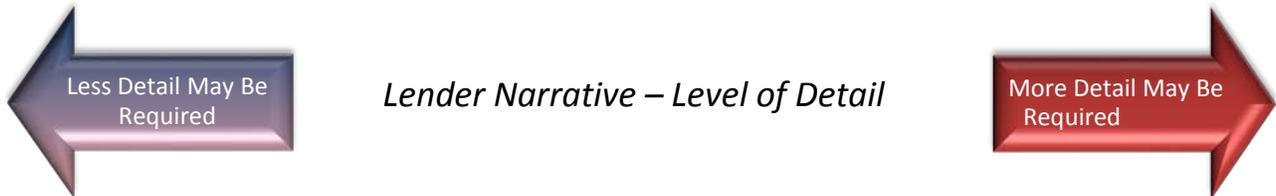
*2-FLP References: Par. 66-C, 67-A, 122-E (OL debt refinance), 123-B (FO debt refinance), 151-154 (feasibility)*

## Lender’s Loan Narrative: Content and Level of Detail

### **Capital Analysis:**

Lender to adequately describe capital, including:

- Discussion of applicant’s financial condition (*In addition to just stating financial ratios, lender should provide context for the type of operation or the life stage of the operation – startup, new enterprise, preparing for retirement.*)
- Effect of new debt on financial condition



Established farmer	Beginning farmer
Strong equity position	Little or no equity
Balance sheet, cash flow projection, and financial and production histories are part of application	Balance sheet, cash flow projection, financial or production histories are not part of application

### **Common Errors and Omissions:**

- Providing financial ratios only, with no context or discussion of these ratios
- Listing the FSA Guarantee as an offsetting strength to compensate for a weakness in capital. Strength should be another credit factor such as capacity, or management ability

*2-FLP References: Par. 66-C, 67-A, 151-154 (feasibility)*

**Subsection 1 Financial Feasibility of Proposed Loan (7 CFR 762.125)****151 Determining Financial Feasibility of Loans (7 CFR 762.125)****A Purpose**

This paragraph describes how SEL and CLP lenders must demonstrate that an applicant has sufficient financial resources to repay a guaranteed loan. PLP lenders use methods outlined in their CMS to determine the financial feasibility of a loan.

**B Feasible Plan**

**The applicant's proposed operation must project a feasible plan. The cash flow budget analyzed to determine feasible plan must represent the predicted cash flow of the operating cycle.**

**Note:** See Exhibit 2 for the definition of feasible plan.

A lender must determine whether an applicant has sufficient financial resources to repay a guaranteed loan. To make this determination, lenders work with the applicant to prepare a cash flow budget for the farm operation. As used in this part, the term "operation" includes all farm activities and income as well as all nonfarm income pledged by the applicant.

The cash flow budget used in the loan application must:

- reflect, as closely as possible, the predicted cash flow of the operating cycle
- be documented in sufficient detail to adequately reflect the overall condition of the operation.

\*--The lender's projected cash flow budget should include all cash inflows and outflows. If the authorized agency official determines that cash inflows have been overestimated or cash outflows have been underestimated or omitted from the plan, the authorized agency official will recalculate the debt coverage. If the recalculation shows adequate cash flow, the authorized agency official will document the findings and proceed with processing the request.

If, after re-evaluation, the cash flow budget is no longer feasible, the lender will be notified and given up to 10 calendar days to revise the plan. The lender will justify any changes made to the cash flow budget.

**Note:** For Streamlined CL requests, a cash flow budget is **not** required. The lender should follow their internal procedures to determine financial feasibility.--\*

## 151 Determining Financial Feasibility of Loans (7 CFR 762.125) (Continued)

**B Feasible Plan (Continued)**

Poultry or hog production contracts are the basis of grower income and facility value. The dependability of production contracts has a profound impact on the prospects for loan repayment. “Flock-to-flock” or “turn-by-turn” type arrangements alone may not be a dependable source of income or a reasonable projection of income for poultry or hog

**\*--applicants who do not have a current financial performance history with FSA.--\***

**Note:** For contract income to be considered dependable, the contract must:

- be for a minimum period of 3 years
- provide for termination based on objective “for cause” criteria only
- require that the grower be notified of specific reasons for cancellation
- provide assurance of the grower’s opportunity to generate enough income to ensure repayment of the loan, by incorporating requirements such as a minimum number of flocks or turns a year, minimum number of bird or hog placements per year, or similar quantifiable requirements.

Applicants requesting loans to expand their poultry or hog operation by adding more houses/barns or purchasing additional land to increase the size of the poultry or hog operation, and who **are** presently indebted to FSA, will be required to have a contract with a minimum 3-year term. The contract must at least cover the facilities financed with the guaranteed funds. When contract income **cannot** be determined to be dependable and likely to continue, that is **cannot** be used to reasonably project future income, the authorized agency officials shall:

- inform the guaranteed lender of the contract provisions that result in the determination
- provide an opportunity for submitting a revised contract before a final decision on the request.

**Note:** Whenever possible, guarantee requests should be approved subject to modification of unacceptable contract provisions.

**151 Determining Financial Feasibility of Loans (7 CFR 762.125) (Continued)****B Feasible Plan (Continued)**

\*--The impact of industry trends must be assessed in guaranteed loan requests from poultry and/or hog growers and can be based on standard production budgets developed by contractors, consultants, or extension specialists. While these budgets are acceptable starting points, the budget must reflect realistic performance assumptions for the individual situation, including, but not limited to, the following:

- increased input costs
- changes in unit numbers and weights
- increased idle time between flocks of poultry or turns of hogs
- other relevant factors that affect net income.

The impact of age, condition, and potential obsolescence of the facilities must be assessed for loans to purchase or refinance existing facilities. Budgets must factor in any reduced efficiency and the potential costs for required modernization of existing facilities to comply with production contract requirements.

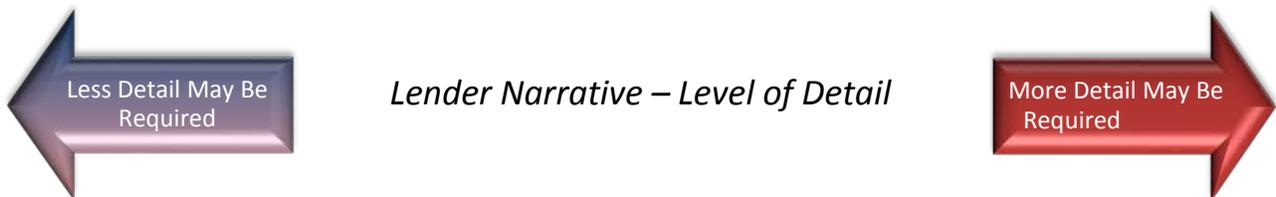
**Note:** Unless PLP lender's CMS specifically addresses how production contracts are evaluated and analyzed for financial feasibility, PLP lenders will comply with the requirements of this subparagraph.--\*

## Lender's Loan Narrative: Content and Level of Detail

### Loan Conditions and Servicing Plan:

Lender to adequately describe loan conditions and servicing, including:

- Lender loan servicing plan describing borrower's financial reporting requirements, limitations and conditions, and other borrower supervision *(Not required if described in another loan application document.)*
- Include requirements for inspecting the collateral and frequency.
- The name, Social Security number, and current address of any guarantors or co-signers required to execute the promissory note *(Not required if this information is listed on the loan application or another application document)*



Established farmer	Beginning farmer
Real estate security	Equipment, livestock or crop security
FO	OL or LOC
Financially strong farming operation	Financially weak farming operation

### Common Errors and Omissions:

- No loan servicing plan
- Insufficient details on co-borrowers, guarantors, or co-signers

*2-FLP References: Par. 66-C, 67-A*

# Annual Financial Analysis Requirements

- ▶ Standard Eligible lenders (**SELs**) and Certified Lenders (**CLPs**) must perform an annual analysis within 90 days of the end of the borrower's operating cycle and submit all required items to FSA within 30 days of the completed analysis.
    - ▶ **2-FLP Paragraph 265**
  - ▶ Line of Credit requirements – **SELs** will request FSA to provide authorization to advance on the LOC in subsequent years 2-5. **CLPs** will provide a certification to FSA with a short narrative that funds have been accounted for and the projected cash flow is feasible.
  - ▶ What is submitted is based upon lender type and borrower's loan type. Please refer to the handout and checklists in your packet.
- 
- ▶ For Preferred Lenders (**PLPs**) – PLPs will perform financial analysis on their borrower portfolio in accordance with the language in the Credit Management System Summary (CMS). That information needs to be placed in the borrower's loan docket and available for review, as appropriate, when FSA completes the annual or biennial review.

## ANNUAL FINANCIAL ANALYSIS BY LENDER

The requirement for **SEL/CLP Lender** is to complete an annual financial analysis of the borrower and is addressed in the 2-FLP Handbook at Paragraph 265. The lender must perform an annual analysis within 90 days of the end of the borrower’s operating cycle. Items to be submitted to FSA are to be sent in within 30 days of the completion of the annual financial analysis.

***PLP lenders must perform financial analysis on borrower’s financial progress according to the terms of their Credit Management System. That information will be reviewed in a FSA file review (either annually or biennially).***

SEL and CLP lenders have different requirements. The following table may clarify what is required for different lender, loan and collateral types. When determining the type of collateral, consider primary collateral only.

		SEL	CLP
<b>Secured by Real Estate</b>	Analyze	<ul style="list-style-type: none"> <li>• Balance sheet</li> <li>• Discuss observations about farm business with borrower</li> </ul>	<ul style="list-style-type: none"> <li>• Lender will determine need for analysis based on financial strength</li> <li>• Document any disposition of collateral</li> <li>• Document discussion about farm business with borrower</li> </ul>
	Submit	<ul style="list-style-type: none"> <li>• Balance sheet (with narrative summary of balance sheet analysis)</li> <li>• Narrative summary of borrower’s progress (if also secured by chattels)</li> </ul>	<ul style="list-style-type: none"> <li>• If analysis is performed, submit summary of balance sheet analysis</li> <li>• If analysis is not performed, submit narrative to support this decision</li> </ul>
<b>Secured by Chattels</b>	Analyze	<ul style="list-style-type: none"> <li>• Business goals (progress)</li> <li>• Compare actual to planned income and expenses</li> <li>• Address trends and changes in financial performance</li> <li>• Account for collateral</li> <li>• Discuss observations about farm business with borrower</li> <li>• Make farm visit and collateral inspection</li> </ul>	<ul style="list-style-type: none"> <li>• Lender will determine need for balance sheet analysis based on financial strength</li> <li>• Business goals (progress)</li> <li>• Compare actual to planned income and expenses</li> <li>• Address trends and changes in financial performance</li> <li>• Document discussion about farm business with borrower</li> <li>• Make farm visit and collateral inspection</li> </ul>
	Submit	<ul style="list-style-type: none"> <li>• Balance sheet</li> <li>• Income and Expense statement</li> <li>• Annual farm visit report (collateral inspection)</li> <li>• Narrative summary of borrower’s progress</li> </ul>	<ul style="list-style-type: none"> <li>• If analysis is performed, submit summary of balance sheet analysis</li> <li>• If analysis is not performed, submit information that supports this decision</li> </ul>
<b>Line of Credit</b> <small>(in addition to items above)</small>	Submit	<ul style="list-style-type: none"> <li>• Projected cash flow showing feasible plan</li> <li>• Request to advance future funds</li> <li>• Narrative summary of borrower’s progress</li> </ul>	Certification stating: <ul style="list-style-type: none"> <li>• Cash flow projects feasible plan</li> <li>• Borrower is in compliance with LOC agreement</li> <li>• Funds have been accounted for</li> </ul>

**Lender's Guaranteed Loan Year-End Reports Checklist for Analysis and Interest Assistance**  
**2-FLP Par. 265, 266 and 228**

Borrower's Name: \_\_\_\_\_ Year: \_\_\_\_\_

Lender: \_\_\_\_\_ Lender Representative: \_\_\_\_\_

**PREFERRED LENDER (PLP)**

- \_\_\_\_\_ Form FSA-2241, Guaranteed Loan Status Report submitted with reporting dates of March 31 and September 30 by April 30 and October 30.
- \_\_\_\_\_ Form FSA-2248, Guaranteed Loan Default Status Report submitted when the loan became 30 days past due and every 60 days thereafter, until the default was cured. When the default is cured, a final FSA-2248 must be submitted indicating that the account is current.
- \_\_\_\_\_ Other information according to individual CMS. For loans involving IA – see below.

**CERTIFIED LENDER (CLP)**

- \_\_\_\_\_ Form FSA-2241, Guaranteed Loan Status Report submitted with reporting dates of March 31 and September 30 by April 30 and October 30.
- \_\_\_\_\_ Form FSA-2248, Guaranteed Loan Default Status Report was submitted when the loan became 30 days past due and every 60 days thereafter, until the default was cured. When the default is cured, a final FSA-2248 must be submitted indicating that the account is current.
- \_\_\_\_\_ Written summary of the lender's annual analysis of the borrower's operation. The summary should include:

- \_\_\_\_\_ Borrower's progress
- \_\_\_\_\_ Borrower's prospects for the upcoming operating cycle

If an annual analysis is required, it must be performed within 90 calendar days of the end of the borrower's operating cycle. The required documents should be submitted to FSA within 30 calendar days of the completion of the annual financial analysis.

*Note: In some instances CLP may determine that the borrower's financial strength is such that an analysis is not necessary. The file will be documented regarding such and relayed to FSA.*

- \_\_\_\_\_ An annual certification for LOC loan(s) stating that:
    - \_\_\_\_\_ A cash flow projecting at least a feasible plan has been developed
    - \_\_\_\_\_ The borrower is in compliance with the provisions of the loan instruments
    - \_\_\_\_\_ The previous year's income, loan funds and security proceeds have been accounted for
- Note: CLP does not need FSA's concurrence to advance on subsequent years for a LOC but must have the annual certification completed and FSA notified as stated above.*

**STANDARD ELIGIBLE (SEL)**

- \_\_\_\_\_ Form FSA-2241, Guaranteed Loan Status Report submitted with reporting dates of March 31 and September 30 by April 30 and October 30.
- \_\_\_\_\_ Form FSA-2248, Guaranteed Loan Default Status Report was submitted when the loan became 30 days past due and every 60 days thereafter, until the default was cured. When the default is cured, a final FSA-2248 must be submitted indicating that the account is current.
- \_\_\_\_\_ An annual analysis of the borrower's operation was performed and includes:
  - \_\_\_\_\_ A current balance sheet
  - \_\_\_\_\_ Evaluation of the borrower's progress regarding business goals
  - \_\_\_\_\_ Evaluation of trends and changes in financial performance
  - \_\_\_\_\_ A comparison of actual and planned income, expenses and production

- \_\_\_\_\_ An accounting for the whereabouts and disposition of collateral
- \_\_\_\_\_ A written record of observations about the farm business as discussed with the borrower
- \_\_\_\_\_ For LOC's, a cash flow for the borrower's operation that projects a feasible plan or better for the upcoming operating cycle
- \_\_\_\_\_ For LOC's, a request for agency approval before advancing future years' funds
- \_\_\_\_\_ An annual farm visit or collateral inspection report

An annual analysis must be performed within 90 calendar days of the end of the borrower's operating cycle. The required documents should be submitted FSA within 30 calendar days of the completion of the annual financial analysis.

**Note: for real estate loans only (G-FO) the analysis will include a balance sheet – no other financial data is required.**

**INTEREST ASSISTANCE PAYMENT & CONTINUATION REQUESTS - All Lenders (including PLP)**

Must provide FSA with the following information within 60 calendar days of the annual review end date:

Note: Interest Assistance Agreements that remain, in Kansas are: 10 Borrowers with 8 Lenders.

***IA Agreements dated after 6/8/07 IA Rule***

- \_\_\_\_\_ Form FSA-2222, Request for Subsidy Payment
- \_\_\_\_\_ Detailed calculations of average daily principal balance during the claim period
- \_\_\_\_\_ Detailed statement of activity, including all disbursements and payments applied to the loan during the claim period.

This information may be submitted promptly for payment with or without the other information needed for a year-end analysis review or request to advance on subsequent years' LOC.

*Added Note: All agreements remaining in Kansas will expire in 2016, with the exception of ONE borrower in 2018.*

**This information may be mailed or faxed. Check with the office regarding email procedure if that is your preferred method.**

EC-FLP-16-003: Approval of G-LOC Advances

For: FLP

Date Posted: 1/22/2016

Program: FLP

Approved By: /s/ Adrian J. Polansky, SED

This EC message updates and replaces EC-FLP-14-010 issued 4/1/14.

Handbook 2-FLP Paragraph 265 C states that several items are needed from the standard eligible lenders (**SEL**'s) to support the annual analysis. Most farmers and ranchers are on a calendar year (Jan. 1 to Dec. 31) operating cycle. Most lenders have the Year-End Analysis (YEA) cycles set in late winter-early spring following the year's end. If they haven't already begun contacting FLP offices, they will most likely be doing so ahead of a full YEA seeking advances on the next years' LOC. There are times when the lender cannot obtain the year-end information or completed tax return, from the borrower, until April or later. Hopefully lenders are prudent in keeping abreast of their guaranteed loan borrower's operation quarterly or semi-annually, depending upon their enterprise in connection with the LOC. However, not having all of the borrower's records (ie: actual yields, income and expense reports, etc.) may hinder the lender's ability to provide FSA with a complete YEA, as described in 2-FLP Paragraph 265 C.

To quote 2-FLP Paragraph 265 C: *"for lines of credit, the cash flow for the borrower's operation that projects a feasible plan or better for the upcoming operating cycle [must be provided]"* and *"the SEL must receive approval from the Agency before advancing future years' funds."*

2-FLP Paragraph 265 F states that FSA will review the information and respond back to the SEL including an authorization to advance LOC funds. In an effort to assist our guaranteed SEL's to accommodate their borrowers in paying for 2016 expenses as incurred for the upcoming cycle of livestock/crops or prepaying for expenses, we continue to encourage FSA loan managers/officers to accommodate a streamlined process in authorizing LOC advances for the upcoming operating cycle. **As long as the SEL has provided FSA with a feasible cash flow\* and has documented changes to the operation, along with a current balance sheet, the loan approval official will document the file accordingly, which puts FSA in a position to authorize the lender to advance on next year's operating cycle for the LOC.** \*Any apparent carry-over debt in the LOC must be adequately addressed and documented prior to the approval of LOC subsequent year advances.

The approval official will notify the lender by letter or email. The County Office will then need to follow up, as necessary, to obtain the previous year's income/expense statement and/or tax return and the lender's previous year narrative summary, etc. to complete the analysis requirement.

Certified Lenders (**CLP's**) will provide data as set out in 2-FLP Par 265 D and E. If the CLP requests FSA to review data submitted and approve advances for the next year, the approval official may oblige; however, it is not a requirement of CLP to receive approval.

Preferred Lenders (**PLP's**) will advance according to their CMS.

EC-RT-11-003 – Guaranteed LOC Annual Review on SharePoint (FLP-Tools) is available for optional use to document the YEA review and authorize advances for the file docket.

This policy will be addressed in the upcoming guaranteed lender training meetings.

Disposal Date: 1/22/2017

Created By: Shelly Wolf, FLS

End of EC Message

# FSA - Guaranteed Loan Servicing

## - Default and Servicing Delinquent Loans

- ▶ When the borrower is in default, all lenders will service the loan according to their Lender's Agreement. Preferred lenders will service according to their CMS.
- ▶ Eligible (SEL) and Certified (CLP) lenders will report to FSA when the loan becomes delinquent and according to 2-FLP Guaranteed Loan Making and Servicing Handbook - **Paragraph 266 B - C**.
- ▶ ALL lenders will submit **FSA Form 2248, Default Status Report**, promptly to the FSA County Office (or initiate such if a LINC lender) and update the status bi-monthly until the default is remedied.
- ▶ It is extremely important that the lender adhere to the time table in Par 300 A of 2-FLP Handbook.

## 266 Lender Reporting Requirements (7 CFR 762.141)

### A Overview

This section covers the general reporting requirements for all lenders. These reporting requirements are not tied to any specific servicing action. Many servicing actions require additional reports and updates from lenders, which this paragraph does not cover. See Exhibit 12 for a checklist of all lender reporting requirements.

### B General Reporting Requirements

**Lenders are responsible for providing the local Agency credit officer with all of the following information on the loan and the borrower:**

- **When the guaranteed loan becomes 30 days past due, and following the lender's meeting or attempts to meet with the borrower, all lenders will submit the appropriate Agency form showing guaranteed loan borrower default status. The form will be resubmitted every 60 days until the default is cured either through restructuring or liquidation.**
- **All lenders will submit the appropriate guaranteed loan status reports as of March 31 and September 30 of each year.**
- **PLP lenders will submit additional reports as required in their Lender's Agreement.**
- **A lender receiving a final loss payment must complete and return an annual report on its collection activities for each unsatisfied account for 3 years following payment of the final loss claim.**

Lenders shall submit FSA-2248 to comply with the requirement to report borrower defaults. This report is used first to notify FSA that a loan is in default, second, as a progress report on the lender's attempt to make the loan current again, and third, once a loan is brought current, as a means to notify FSA of the new loan terms and conditions. See Part 12 for more details on this reporting requirement.

Lenders should submit FSA-2241 to comply with the requirement to submit a semi-annual loan status report. This report provides an update on the borrower's progress on loan payback and the loan's terms and conditions.

- \*--Note:** Lenders who are authorized to participate in electronic reporting shall update loan information for FSA-2248 and FSA-2241 in LINC. Lenders shall see Exhibit 5, for additional information about registering and accessing FSA's electronic online systems.--\*

Lenders should submit FSA-2261 to satisfy the requirement for an annual report on collection activities. See Part 14 for more details on this reporting requirement.

**FSA-2248**  
(08-18-08)

**U.S. DEPARTMENT OF AGRICULTURE**  
Farm Service Agency

Position 2

**GUARANTEED FARM LOAN DEFAULT STATUS REPORT**

**LENDERS: COMPLETE ALL ITEMS.**

1. FSA ID NUMBER	2. BORROWER'S NAME
3. LENDER'S ID NUMBER	4. LENDER'S BRANCH NUMBER
5. LENDER'S NAME	6. LENDER'S LOAN NUMBER
7. AGENCY LOAN NUMBER	8. DATE LOAN BECAME DELINQUENT
9. UNPAID PRINCIPAL ON LOAN \$	10. UNPAID INTEREST ACCRUED \$
11. TOTAL AMOUNT PAST DUE \$	12. AS OF DATE

13. DELINQUENT CODE: \_\_\_\_\_ (Enter appropriate code)

01 = DELINQUENT-DISPOSITION FORTHCOMING	10 = NOT VALID FOR THIS PROGRAM
02 = BORROWER WILL PAY DELINQUENT AMOUNT	11 = RESCHEDULING OF PAYMENTS COMPLETED
03 = NOT VALID FOR THIS PROGRAM	12 = DEFERRAL OF PRINCIPAL AND INTEREST PAYMENTS COMPLETED
04 = FORCED LIQUIDATION PENDING	13 = LOAN REINSTATED AND CURRENT
05 = VOLUNTARY LIQUIDATION PENDING	14 = BANKRUPTCY LIQUIDATION FILED BY BORROWER
06 = FORCED LIQUIDATION PENDING. ESTIMATED LOSS CLAIM FILED	15 = BANKRUPTCY REORGANIZATION FILED BY BORROWER
07 = VOLUNTARY LIQUIDATION PENDING. ESTIMATED LOSS CLAIM FILED	16 = BANKRUPTCY REORGANIZATION IN EFFECT. LOAN IS CURRENT AS PER BANKRUPTCY PLAN
08 = TEMPORARY LOAN BY LENDER TO BRING ACCOUNT CURRENT	17 = BANKRUPTCY REORGANIZATION WITH COURT ORDERED INTEREST RATE REDUCTION IN EFFECT. LOAN IS CURRENT AS PER BANKRUPTCY PLAN
09 = BORROWER RESTRUCTURING PENDING	

Note: If code 1-2, 4-7, 9 or 14-15 is entered, bimonthly default status reports must be prepared. If code 8, 11-13, or 16-17 is entered, no further default status reports are required unless the borrower returns to default status at a future date.

14. INTEREST ASSISTANCE (IA) HAS BEEN CONSIDERED AND:

A. Has been ruled out as an option to correct the default.

B. An agency determination of IA eligibility is being requested in conjunction with the attached proposal to reschedule the debt.

15. COMMENTS ON MOST RECENT ACTION TAKEN, RESULTS, NEXT PLANNED ACTION AND DATE. ATTACH BANKRUPTCY SCHEDULES, COPIES OF CORRESPONDENCE, OR ADDITIONAL DOCUMENTATION AS NECESSARY.

16A. LENDER'S AUTHORIZED SIGNATURE	16B. TITLE	16C. DATE
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**NOTE:** The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a): the Farm Service Agency (FSA) is authorized by the Consolidated Farm and Rural Development Act, (7 USC 1921 et seq.), or other Acts, and the regulations promulgated thereunder, to solicit the information requested on its application forms. The information requested is necessary for FSA to determine eligibility for credit or other financial assistance, service your guarantee loan and conduct statistical analyses. Supplied information may be furnished to other Department of Agriculture agencies, the Department of the Treasury, the Department of Justice or other law enforcement agencies, the Department of Defense, the Department of Housing and Urban Development, the Department of Labor, the United States Postal Service, or other Federal, State, or local agencies as required or permitted by law. In addition, information may be referred to interested parties under the Freedom of Information Act (FOIA), to financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources, to collection or servicing contractors, to credit reporting agencies, to private attorneys under contract with FSA or the Department of Justice, to business firms in the trade area that buy chattel or crops or sell them for commission, to Members of Congress or Congressional staff members, or to courts or adjudicative bodies. Disclosure of the information requested is voluntary. However, failure to disclose certain items of information requested, including your Social Security Number or Federal Tax Identification Number, may result in a delay in the processing or rejection.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0155. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. **RETURN THIS COMPLETED FORM TO YOUR LOCAL FSA OFFICE.**

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

# FSA - Guaranteed Loan Servicing

## - Default and Servicing Delinquent 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 farming.  
{2-FLP Par 300 A}

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

**\*--Part 12 Servicing Delinquent Accounts--\***

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

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

**\*--A Default and Servicing Delinquent 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 operation. Prompt followup 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 timeline for servicing delinquent loans and the required lender actions for restructuring guaranteed loans.

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

# FSA - Guaranteed Loan Servicing

## - Default and Servicing Delinquent Loans

- ▶ FSA's concurrence is needed to restructure a guaranteed loan.  
(Exception: Preferred Lenders will proceed according to their CMS and notify FSA what occurred and provide a final **FSA 2248** Default Status Report)
- ▶ If the lender and borrower cannot develop a feasible plan to bring the loan current, the loan shall be liquidated.
- ▶ Restructuring options available for guaranteed loans are:
  - ▶ Rescheduling the debt
  - ▶ Deferral
  - ▶ Write-down
  - ▶ Restructure new and old debt \*

**300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)****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 a loss claim 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.

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

**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 \*--financial information available.** These statements and their implication in the--\* borrower's ability to bring the loan current should be discussed at the lender-borrower meeting.

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

**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-2248) 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 about agreements reached may be attached to this report. The meeting summary attached to FSA-2248 should also include the dates of planned servicing actions. The lender must continue to submit FSA-2248 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-2248 by mail or electronically, indicating that the loan is current and the new loan terms and conditions. FSA \*--will input the information, including any comments, through GLS immediately upon--\* receipt, if the information was submitted by mail. Otherwise, the lender will update the information through GLS.

\*--**Note:** If comments are not provided by the lender, the authorized agency official will notate that comments were not provided by the lender when entering data from FSA-2248 in GLS.--\*

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

**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.

**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.

**300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)****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 Lender's Agreement. **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 unfeasible, FSA expects the lender to accelerate the loan and prepare for liquidation by this date. See Part 14.

**301 Nonmonetary Default - Overall Loan Servicing Process****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, timeframes, 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.

**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.

**302-311 (Reserved)**

# FSA - Guaranteed Loan Servicing

## - Default and Servicing Delinquent Loans

- ▶ When DO YOU, the Lender, consider a 5-year Guaranteed Line of Credit (LOC) in default status?



- ▶ When DOES FSA consider the Line of Credit (LOC) in default status?
  - ▶ A LOC is considered in default when all income derived from advances on the LOC have been applied to the LOC Note and a balance remains. The balance must be secured with current assets.

# Line of Credit (LOC) Servicing

- ▶ The lender has submitted a request in early 2016 to advance in year 3 of a 5-year LOC. Through the lender analysis, it appears there is \$56,000 balance from 2015.
- ▶ Is the LOC considered past due or delinquent?
- ▶ It depends:
  - ▶ The LOC does not need to be paid down to zero at the end of each operating (previous years' cash flow) year
  - ▶ There needs to be adequate current assets on hand. ie: investment in growing crops, prepaid expenses, crops on hand, cash on hand, accounts receivable, etc. to offset the balance of the LOC
  - ▶ Open communication needs to take place with the FSA Loan Officer to determine how to service carry-over debt and continue with advances on the LOC. Consideration will need to be given to possible servicing options to obtain a feasible cash flow.

# Additional Loans made Outside the Loan Guarantee

- ▶ SEL and CLP lenders must not make additional loans or advances without prior written approval of the Agency. \*
- ▶ The PLP lender may make additional loans or advances in accordance with the lender's agreement with the Agency. \*
  - ▶ **2-FLP paragraph 282 A**
- ▶ \*Exception: If "additional loans or advances" are addressed (provided for) in the borrower's Loan or Line of Credit Agreement, then the lender may document the file without approval of FSA.
  - ▶ This applies to all lender, regardless of lender type. There are instances wherein a PLP does not have additional loans/advances mentioned in their CMS.

**282 Additional Loans or Advances (7 CFR 762.146(a))**

**A Additional Loans or Advances**

**SEL and CLP lenders must not make additional loans or advances without prior written approval of the Agency, except as provided in the borrower's Loan or Line of Credit Agreement.**

**The PLP lender may make additional loans or advances in accordance with the lender's agreement with the Agency.**

# Emergency LOC Advances (2-FLP Par 283 A)

- ▶ Lender may make emergency (EM) advances when a Line of Credit (LOC) has reached its ceiling. The EM advance will be made as an advance under the LOC and not as a separate note.
- ▶ The lender's loan documents must contain sufficient language to provide that any EM advance will constitute a debt of the borrower to the lender and be secured with the security instrument.
- ▶ The following conditions apply:
  - ▶ Loan funds advance under the EM must be authorized operation loan purposes.
  - ▶ The EM advance may not be used to pay a carryover of an existing LOC or for annual operating expenses for a subsequent year.
  - ▶ The financial benefit to the lender and the Government from the advance will exceed the amount of the advance.
  - ▶ The loss of crops or livestock is imminent unless the advance is made.

## 283 Emergency Advances (7 CFR 762.146(a))

## A Issuing an Emergency Advance Under LOC

**In cases of a guaranteed line of credit, lenders may make an emergency advance when a line of credit has reached its ceiling. The emergency advance will be made as an advance under the line and not as a separate note.** An emergency advance made on a loan with interest assistance is **not** and **cannot** be covered under the existing FSA-2221. Therefore, the lender will charge the full note interest rate on the emergency advance and the advance **cannot** be used as part of the average principal balance calculation for the lender's interest assistance claim.

**The lender's loan documents must contain sufficient language to provide that any emergency advance will constitute a debt of the borrower to the lender and be secured by the security instrument. The following conditions apply:**

- **the loan funds to be advanced are for authorized operating loan purposes**

**Note:** An emergency advance may not be used to pay a carryover of an existing line of credit or for annual operating expenses for a subsequent year.

- **the financial benefit to the lender and the Government from the advance will exceed the amount of the advance**
- **the loss of crops or livestock is imminent unless the advance is made.**

**Note:** An emergency advance:

- in excess of the original loan amount is made when some aberration causes expenses to exceed the original budgeted amount, and is necessary to avoid significant damage to or loss of the security
- **\*--shall not be used if its use will cause the total amount of the borrower's debt to exceed the statutory limit.--\***

# Emergency LOC Advances – cont.

- ▶ What are some examples where an emergency (EM) advance may be appropriate?
  - ▶ 1. unexpected increased input costs
  - ▶ 2. unusual weather conditions resulting in additional expenses
  - ▶ 3. fire or other calamity destroys equipment just before planting or harvesting which causes an aberration to rent equipment or custom hire
  - ▶ 4. unplanned cost of inputs increase substantially to raise livestock
- ▶ Eligible (SEL) and Certified (CLP) lender must obtain written permission from FSA before an EM advance on a LOC can be made.
  - ▶ EM advances are authorized for ongoing operations and may be used for OL's with a 1-year term, or in any year of the LOC.
  - ▶ (True or False) Where liquidation is imminent, EM advances may be considered.
  - ▶ A Preferred Lender (PLP) may make EM advances according to the Lender's Agreement and CMS.

**283 Emergency Advances (7 CFR 762.146(a)) (Continued)****A Issuing an Emergency Advance Under LOC (Continued)**

The following are examples where an emergency advance may be appropriate.

- The cost of an input item necessary for production of a crop, such as fertilizer or fuel unexpectedly increases substantially in price between the time the loan is made and the time the input is used.
- Unusual weather conditions result in additional expenses, such as a late freeze that results in a replanting of a crop, or an insect infestation results in unanticipated spraying.
- Fire or other calamity destroys a tractor or harvesting equipment just before harvest, and it is necessary to rent equipment, or custom hire for the harvest.
- The cost of inputs for raising livestock unexpectedly increases substantially, such as the cost of feed.

**B Lender Request for an Emergency Advance**

SEL's and CLP lenders must obtain written permission from the authorized agency official before an emergency advance on LOC can be made.

Emergency advances are authorized for ongoing operations and may be used for OL's with a 1-year term, or in any year of LOC. Where liquidation is imminent, advances will be made as protective advances according to Part 14.

To request an emergency advance, SEL's and CLP lenders must submit the following to the authorized agency official:

- a narrative explaining that the loss of crops and/or livestock is imminent and can be prevented by an infusion of cash
- cash flow projections
- if necessary, a copy of the modified loan note that reflects the additional cash advanced.

PLP lenders may make emergency advances according to their Lender's Agreement.

# Protective Advances - 2-FLP Par 360 D

- ▶ Protective advances are expenses incurred by a lender to protect or preserve collateral from loss or deterioration.
- ▶ Prior written authorization from FSA is required for all protective advances in excess of \$5,000 (CLP) and \$3,000 (SEL). For PLP lenders, the dollar amount of protective advances will be outlined in their lender's agreement and CMS. If the CMS is silent for a PLP, written authorization is required for advances in excess of \$5,000.
- ▶ Protective advances are used only when the borrower is in liquidation, liquidation is imminent or when the lender has taken title to real property in a liquidation action.
- ▶ Legal fees are not a protective advance.
- ▶ Protective advances approved by FSA may be made by a lender to protect or preserve the collateral from loss or deterioration. Interest on those advances are covered under the guarantee.

**360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)****D Protective Advances**

Protective advances are expenses incurred by a lender to protect or preserve collateral from loss or deterioration. Protective advances should be shown on FSA-2254.

**Prior written authorization from the Agency is required for all protective advances in excess of \$5,000 for CLP lenders, \$3,000 for standard eligible lenders. The dollar amount of protective advances for PLP lenders will be specified when PLP status is \*--awarded by the Agency or as allowed and contained in the lender's agreement.**

PLP lenders, for which CMS does not contain the dollar amount of protective advances allowed, are required to obtain FSA's written authorization for advances in excess of \$5,000. All other PLP lenders shall follow their CMS in making protective advances.--\*

**The lender may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances allowed in this part, plus interest that accrues on the protective advances.**

Interest that accrues on protective advances is limited to the guaranteed loan interest accrual cutoff if the protective advance is used to pay off the lender's prior lien.

**Payment for protective advances is made by the Agency when the final loss claim is approved, except in bankruptcy actions.**

**Protective advances are used only when the borrower is in liquidation, liquidation is imminent, or when the lender has taken title to real property in a liquidation action.**

**Legal fees are not a protective advance.**

**Protective advances may only be made when the lender can demonstrate the advance is in the best interest of the lender and the Government.**

**Protective advances must constitute a debt of the borrower to the lender and be secured by the security instrument.**

**Protective advances must not be made in lieu of additional loans.**

Protective advances approved by FSA may be made by a lender to protect or preserve the collateral from loss or deterioration. Additional loans made to improve the value of security, such as loans for home improvement, are not protective advances and should not be approved. Protective advances and the interest that accrues on the advances are covered by the guarantee.

# Protective Advances – cont.

- ▶ Do the following constitute a Protective Advance?
  - ▶ A. Custom hire expenses
  - ▶ B. Crop insurance
  - ▶ C. Vet and Feed for the cattle
  - ▶ D. Utilities for the abandoned home
  - ▶ E. Homeowner's insurance premiums
  - ▶ F. Family Living
  - ▶ G. Marketing expenses
  - ▶ H. Sales commission (house or equipment)
  - ▶ I. Attorney Fees
  - ▶ J. Repairs to the real property (home, fences, terraces)

# Bankruptcy

- ▶ It is the lender's responsibility to service the guaranteed loans under the Loan Guarantee in a prudent lending manner. The lender will take whatever actions they feel are necessary in order to protect both the lender and the government's interest.
  - ▶ **2-FLP Paragraph 340 - 342**
- ▶ If bank legal counsel is not proficient in bankruptcy proceedings, consider hiring a "bankruptcy" attorney.
- ▶ Provide FSA with a copy of the bankruptcy schedules
- ▶ Follow **2-FLP Handbook Paragraph 341** "Lender's Responsibilities in Bankruptcy Proceedings"
- ▶ Complete and submit **FSA 2248** to the FSA County Office or if participating in LINC - submit the data electronically via guaranteed loan system. Provide bi-monthly updates.

# Bankruptcy –2-FLP Guaranteed Loan Making Servicing Handbook – (Part 13)

Beginning at Paragraph 340 A

- ▶ It is the lender’s responsibility to service the guaranteed loans under the Loan Guarantee in a prudent lending manner. The lender will take whatever actions they feel are necessary in order to protect both the lender and the government’s interest.
  - ▶ **2-FLP Paragraph 340 - 342**
- ▶ If bank legal counsel is not proficient in bankruptcy proceedings, consider hiring a “bankruptcy” attorney.
- ▶ Provide FSA with a copy of the bankruptcy schedules
- ▶ Follow 2-FLP Handbook Paragraph 341 “Lender’s Responsibilities in Bankruptcy Proceedings”
- ▶ Complete and submit **FSA 2248** to the FSA County Office or if participating in LINC – submit the data electronically via guaranteed loan system. Provide bi-monthly updates.

Claims for Expenses in Reorganizations – Par 342 A

Claims for Estimated Losses of Principal and Interest in Reorganizations – Par 342 B

Claims for Estimated Interest-Only Losses in Reorganizations – Par 342 C

Claims for Reimbursement of Protective Advances in Reorganizations – Par 342 D

Claims for Actual Losses in Reorganizations – Par 342 E

Claims for Expenses in Liquidation (Bankruptcy) – Par 343 A

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# Loss Claims - Interest Accrual Changes

- ▶ On July 10, 2008 FSA regulations changed interest accrual calculations **FROM:**
  - ▶ Interest accrual will not be paid beyond 90 calendar days from the date of the decision to liquidate as long as it does not exceed 210 calendar days from the payment due date.
- ▶ **TO:**
  - ▶ If an estimated loss claim was not submitted, interest accrual will not be paid beyond 150 calendar days from the payment due date for all loans made on or after July 10, 2008.
- ▶ **On August 24, 2015, FSA revised 2-FLP Par 360 F to read:**
  - ▶ If an estimated loss claim was not submitted, interest accrual will not be paid beyond 150 calendar days from the payment due date. \*
- ▶ \* = *There is no longer a separate interest accrual calculation based upon when the loan was made (7/10/08 date is out)*

# When should an Estimated Loss Claim be submitted?

- ▶ When the Bankruptcy Confirmation Plan is confirmed **2-FLP Par 342**
  - ▶ The lender will submit an updated FSA 2248 and a copy of the confirmation Plan to FSA.
  - ▶ An estimated loss claim is necessary to pay the lender any losses (ie: Principal cram-down) incurred from the Reorganization Plan.
  - ▶ If there was a interest rate cram-down ordered in the Plan, the Lender may submit annual interest-loss only claims on the anniversary of the Confirmation Plan.
- ▶ When a Liquidation Plan is submitted **2-FLP Par 355 E**
  - ▶ Within 150 days after the payment due date, all lenders will prepare a liquidation plan. SEL and CLP will submit a written liquidation plan to FSA. PLP lenders will submit a liquidation plan as required by their CMS.
  - ▶ An estimated loss claim must be filed no later than 150 days past the payment due date *unless the account has been completely liquidated and then a final loss claim must be filed.*

**GUARANTEED ESTIMATED LOSS REVIEW CHECKLIST FOR SEL AND CLP LENDERS**

**PART A - GENERAL LOAN INFORMATION**

1. Date Reviewed	2. Name of Lender	3. FSA Account Number			4. County FSA Office
		A. State Code	B. County Code	C. FSA ID Number	
5. Name of Borrower		6. Original Loan Amount \$		7. Type of Loans	
8. Original Term of Loan	9. Date of Loan	10. Interest Rate Fixed/Variable %		11. Interest Rate Calculation Method (Choose one) <input type="checkbox"/> 360 days <input type="checkbox"/> 365 days <input type="checkbox"/> 360/365	

**PART B - BANKRUPTCY CASE INFORMATION**

12. Bankruptcy Chapter Number	13. Bankruptcy Case Number	14. Date Bankruptcy Filed	15. Date Plan Confirmed	16. Effective Date
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**PART C - EXPENSES RELATED TO DISPOSITION AND PROCEEDS APPLIED TO LOAN TO DATE (IF APPLICABLE)**

17. Liquidation Expenses \$	18. Protective Advances \$	19. Total Expenses \$	20. Sales Proceeds Applied to Loan to Date \$
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**PART D - CURRENT LOAN BALANCE**

21. Principal \$	22. Interest \$	23. Total \$	24. Effective Date	25. Daily Interest Accrual \$
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**PART E - SECURITY VALUE**

26. Security	27. Appraised Value at Loan Approval	28. Current Market Value	29. Net Recovery Value	30. Sale Proceeds Received
Real Estate	\$	\$	\$	\$
Machinery	\$	\$	\$	\$
Crops	\$	\$	\$	\$
Livestock	\$	\$	\$	\$
Other:	\$	\$	\$	\$
<b>TOTALS:</b>	\$	\$	\$	\$

**PART F - QUESTIONS THAT APPLY TO BOTH LIQUIDATION AND BANKRUPTCY LOSS CLAIMS (Continued on Page 2)**

All questions with an answer of "NO" require written documentation. Use Item 53 to explain any questions answered with a "NO".	YES	NO	N/A
31. A. Has a review of all liquidation costs been completed?			
B. Are they reasonable?			
C. Did FSA give written concurrence when it was needed?			
D. Did the lender charge in-house expenses?			
32. Has the lender completed FSA-2248, Guaranteed Farm Loan Default Status Report, as necessary?			
33. Has the maximum amount of principal been exceeded?			
34. Is all sale documentation attached?			
35. Did the lender obtain the security and lien position required?			
36. Has unaccounted for security values been deducted from the lender's loan balance (if appropriate) in accordance with 2-FLP?			

**PART F - QUESTIONS THAT APPLY TO BOTH LIQUIDATION AND BANKRUPTCY LOSS CLAIMS**

All questions with an answer of "NO" require written documentation. Use Item 53 to explain any questions answered with a "NO".	YES	NO	N/A
37. Has income from the sale of collateral been accounted for from the time the loan closed to the point of the estimated loss payment?			
38. Does the payment ledger show all interest charges, principle reductions, time periods, interest rate, and principle amount?			
39. If the borrower(s) has non-guaranteed loans with the lender, did the lender apply proceeds and payments to the appropriate account?			
40. Were loan funds used as specified on the Conditional Commitment?			
41. Are you satisfied that there has been no fraud or misrepresentation by the lender?			
42. Has the Guarantee Report of Loss been completed and coded correctly for bankruptcy reorganization?			

**PART G - QUESTIONS THAT APPLY TO BANKRUPTCY LOSS CLAIMS ONLY**

All questions with an answer of "NO" require written documentation. Use Item 53 to explain any questions answered with a "NO".	YES	NO	N/A
43. Did the lender file proof of claim in a timely manner?			
44. Did the lender seek adequate protection of collateral?			
45. A. Is justification and authorization attached for any protective advances?			
B. Are they reasonable?			
C. Did FSA give written concurrence when it was needed?			
46. Did the lender request modification of any plan of reorganization when it appeared that additional recoveries were likely?			
47. Did the lender or its representative attend and participate when necessary in meetings of creditors and in all court proceedings?			
48. Were updates on bankruptcy proceedings provided on the bimonthly default status reports?			
49. Has the bankruptcy plan been confirmed and has the lender provided a copy of the plan along with the court confirmation order?			
50. Has the lender included interest only up to the date the confirmed plan becomes effective?			

**PART H - LOANS SOLD ON SECONDARY MARKET**

All questions with an answer of "NO" require written documentation. Use Item 53 to explain any questions answered with a "NO".	YES	NO	N/A
51. If FSA purchased, was the note interest stopped 90 days after the holders demand to the lender to repurchase?			
52. If FSA purchased, does the estimated loss accurately reflect the guaranteed amount (if any) held by the lender?			

**PART I - EXPLAIN ALL QUESTIONS THAT WERE ANSWERED WITH A "NO"**

53. If additional space is needed, attach a separate sheet.

54A. Signature of FSA Reviewer	54B. Title of FSA Reviewer (Print)	54C. Date
54D. Name and Address of FSA Reviewer (Print)		54E. Telephone No. of FSA Reviewer

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<b>FSA-2296</b> (08-18-08)	<b>U.S. DEPARTMENT OF AGRICULTURE</b> Farm Service Agency <b>GUARANTEED LOAN FINAL LOSS REVIEW CHECKLIST</b>	Position 3
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**PART A - GENERAL LOAN INFORMATION**

1. Date Reviewed	2. Name of Lender	3. FSA Account Number			4. County FSA Office
		A. State Code	B. County Code	C. FSA ID Number	
5. Name of Borrower		6. Original Loan Amount \$		7. Type of Loan	
8. Original Term of Loan	9. Date of Loan	10. Interest Rate Fixed/Variable %		11. Interest Rate Calculation Method (chose one) <input type="checkbox"/> 360 days <input type="checkbox"/> 365 days <input type="checkbox"/> 360/365	

**PART B - EXPENSES RELATED TO DISPOSITION AND PROCEEDS APPLIED TO LOAN TO DATE**

12. Liquidation Expenses \$	13. Protective Advances \$	14. Total Expenses \$	15. Amount of Sales Proceeds Applied to Loan to Date \$
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**PART C - LOAN BALANCE AT LIQUIDATION**

16. Principal \$	17. Interest \$	18. Total \$	19. Effective Date	20. Daily Interest Accrual \$
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**PART D - SECURITY VALUE**

21. Security	22. Security Value at Loan Approval	23. Current Market Value	24. Net Recovery Value	25. Amount of Sales Proceeds Received by Lender	26. Date Proceeds Received
Real Estate	\$	\$	\$	\$	
Machinery	\$	\$	\$	\$	
Crops	\$	\$	\$	\$	
Livestock	\$	\$	\$	\$	
Other:	\$	\$	\$	\$	
<b>TOTALS:</b>	\$	\$	\$	\$	

**PART E - QUESTIONS THAT APPLY IN ALL LOSS CLAIMS CASES (Continued on Page 2)**

All questions with an answer of "NO" require written documentation. Use Item 49 to explain any questions answered with a "NO"	YES	NO	N/A
27. Has the estimated loss payment been accounted for in the final loss calculations?			
28. A. Is justification and authorization attached for all sales expenses and protective advances?			
B. Has a review of all liquidation costs been made?			
C. Are they reasonable?			
D. Did FSA give written concurrence when it was needed?			
29. Has a review been made to assure that the lender has not charged for in-house expenses?			
30. Has the maximum amount of principal been exceeded?			
31. Will the lender release the borrower from liability, or pursue future recovery against non security assets?			
32. Has collection been pursued or made from personal assets, cosigners, or guarantors?			

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information ( Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of Discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

**PART E - QUESTIONS THAT APPLY IN ALL LOSS CLAIMS CASES**

All questions with an answer of "NO" require written documentation. Use Item 49 to explain any questions answered with a "NO"	YES	NO	N/A
33. Were liquidation costs deducted from gross proceeds received?			
34. Were sales carried out as approved?			
35. Were appraisal fees deducted from the collateral sales proceeds?			
36. Did the lender obtain the proper security and lien position required?			
37. Has all collateral been disposed of and accounted for?			
38. Has unaccounted for security been deducted from the lender's claim (if appropriate) in accordance with 2-FLP?			
39. A. Has the lender provided a copy of the payment ledger showing all interest charges and principle reductions? This must show time periods, interest rate, and principle amount.			
B. Have payments been properly applied?			
40. Were all proceeds from the sale of collateral applied correctly by the lender in order of lien priority, from the time immediately after the loan closed to the point when liquidation was completed?			
41. Has the lender followed the liquidation plan expeditiously?			
42. Was default notification and subsequent reporting requirements provided in a timely manner and as required?			
43. If the borrower had non-guaranteed loans with the lender, did the lender apply proceeds and payments to the appropriate account?			
44. Were loan funds used as specified on the Conditional Commitment?			
45. Are you satisfied that there has been no fraud or misrepresentation by the lender?			
46. Was the loss claim form completed and coded correctly?			

**PART F - LOANS SOLD ON THE SECONDARY MARKET**

All questions with an answer of "NO" require written documentation. Use Item 49 to explain any questions answered with a "NO"	YES	NO	N/A
47. If FSA purchased, was note interest stopped 90 days after the holders demand to the lender to repurchase?			
48. If FSA purchased, does the lender's final loss claim include payment to FSA for all liquidation proceeds received in proportion to the guaranteed percentage of the loan?			

**PART G - EXPLAIN ALL QUESTIONS THAT WERE ANSWERED WITH A "NO"**

49. If additional space is needed, attach a separate sheet.

50A. Signature of FSA Reviewer	50B. Title of FSA Reviewer ( <i>Print</i> )	50C. Date
50D. Name and Address of FSA Reviewer ( <i>Print</i> )		50E. Telephone No. of FSA Reviewer

## **Loss Claims**

### **A Estimated Loss Claim Interest Accrual Examples**

Lender submits estimated loss claim on day 90. FSA approves on day 140 after 20 calendar days of lender delay in providing FSA requested information. Lender receives 140 calendar days of interest. (Pay all within 150 calendar days.)

Lender submits estimated loss claim on day 140. FSA approves on day 190 after 30 calendar days of lender delay in providing FSA requested information. Lender receives 170 calendar days of interest accrual. ( $190 - 20$  for lender delay = 170.)

Lender submits estimated loss claim with complete information on day 155. FSA approves on day 200. Lender receives 150 calendar days of interest accrual. (Claim submitted after 150 calendar days.)

Lender submits estimated loss claim on day 150. FSA approves on day 220, 40 calendar days after lender provides FSA requested complete and timely information. Lender receives 220 calendar days of interest accrual. (Lender gets 210 max interest + 10 for FSA delay over 30 = 220.)

Lender submits estimated loss claim on day 130. FSA timely approves on day 230 after 50 calendar days of lender delay in providing FSA requested information. Lender receives 170 calendar days of interest accrual. (Lender gets 210 max interest - 40 for lender delay = 170.)

Lender submits estimated loss claim on day 140. FSA approves on day 260, 50 calendar days after lender provides FSA requested complete information, but only after 40 calendar days of \*--lender delay. Lender receives 200 calendar days of interest accrual. (Lender gets 210 max interest - 30 for lender delay = 180 max + 20 for FSA delay = 200.)

Lender submits estimated loss claim on day 130. FSA approves on day 320, 110 calendar days after lender provides FSA requested complete information, but only after 70 calendar days of lender delay. Lender receives 200 calendar days of interest accrual. (Lender gets 210 max--\* interest - 60 for lender delay = 150 max + 80 for FSA delay = 230.)

**\*--Loss Claims (Continued)**

**B Estimated Loss Claim Interest Accrual When Reorganization Bankruptcy Is Filed and Dismissed Examples**

Lender submits estimated loss claim on day 110. FSA receives and reviews complete information on day 170 after a 50-calendar-day delay. Borrower files bankruptcy on day 190. Bankruptcy is dismissed on day 300. FSA approves lender-estimated loss claim on day 310. Lender receives 270 calendar days of interest accrual. (Lender gets 160 calendar days {170 + 20 + 10 for FSA processing outside of bankruptcy – 40 calendar days for lender delay} + 110 calendar days for bankruptcy deliberations = 270.)

Lender submits estimated loss claim on day 150. FSA receives and reviews complete lender information on day 240 after 60-calendar-day lender delay. Borrower files bankruptcy on day 250. Bankruptcy is dismissed on day 330. FSA approves estimated loss claim on day 360. Lender receives 250 calendar days of interest accrual. (Lender gets 210 max interest – 50 for lender delay = 160 + 80 for bankruptcy deliberations + 10 for FSA delay = 250.)

Lender begins liquidation and does not submit estimated loss claim. Borrower files bankruptcy on day 120. Bankruptcy is dismissed on day 200. Lender submits estimated loss claim with complete information on day 220. FSA approves loss claim on day 230. Lender receives 230 calendar days of interest accrual. (Lender gets 150 calendar days {120 + 20 + 10} + 80 for bankruptcy deliberations.)

Lender submits estimated loss claim with complete information on day 152. Borrower files bankruptcy on day 160. Bankruptcy plan is dismissed on day 250. FSA approves loss claim on day 300. Lender receives 240 calendar days of interest accrual. (Late loss claim limited to 150 calendar days of interest accrual + 90 calendar days for bankruptcy deliberations = 240.)

**C Estimated Loss Claim With Borrower-Initiated Litigation Example**

Lender files estimated loss claim on day 110. On day 160, after 30-calendar-day delay, lender provides complete information to FSA. Borrower files suit on day 170. Suit is dismissed on day 270. FSA approves estimated claim on day 290. Lender receives 270 calendar days of interest accrual. (Lender gets 170 {160 + 10 + 20 – 20 for lender delay} + 100 calendar days for litigation deliberations.)

**D Estimated Loss Claim Post Reorganization Bankruptcy Plan Completion**

Handled the same as any other liquidation.

**Note:** Principle and interest begins with balances at bankruptcy plan completion date.--\*

## Loss Claims (Continued)

### E Final Loss Claim Interest Accrual Examples

Lender submits final loss claim with interest accruing through 155 calendar days. Estimated loss claim was approved by FSA on day 150 and lender was paid for 150 calendar days of interest accrual on day 155. Lender may receive 5 additional calendar days of interest accrual on the \*--final loss claim based upon the daily interest accrual rate submitted with the estimated loss claim.

Lender submits final loss claim with interest accruing through 140 calendar days, after having an estimated loss timely submitted and timely approved by FSA. FSA approves estimated loss claim on day 140 and lender was paid on day 143. FSA approves the final loss claim 60 calendar days after receiving complete lender information on the final loss claim. Lender receives 20 calendar days of additional interest for FSA delay. Lender also may receive 3 additional days of interest accrual on the final loss claim, if they claim it and those 3 interest days will be based upon the daily interest accrual rate submitted with the estimated loss claim.--\*

### F Final Loss Claim Interest Accrual When Reorganization Bankruptcy Is Filed and Dismissed (Estimated Loss Previously Paid)

The claim should include the entire debt and interest accrual to date of the claim. Subtract out the previous estimated loss payment plus the interest that accrued between the first estimated payment and the bankruptcy filing, and subtract interest accrual between the bankruptcy dismissal date and the final loss claim date.

**Example:** Lender files estimated loss claim on day 100. Information is complete. FSA approves estimated loss claim on day 125. Lender receives payment on day 128. Borrower files chapter 12 bankruptcy on day 130. Bankruptcy is dismissed on day 310. Lender submits final loss claim on day 400. FSA approves final loss claim on day 440. Lender receives 308 calendar days of interest accrual. (Lender gets 128 {100 + 28} + 180 for bankruptcy deliberations.) FSA approves final within 40 calendar days. Any days over 40 for FSA would have been required to pay additional interest payment for those days. Final loss calculation will subtract out estimated loss payment accounting for 125 calendar days of interest the lender has \*--already been paid on the principal portion of the loss.

**Note:** For a Type 5 Bankruptcy Loss (or a Type 1 Estimated Loss that was converted to a Type 5 Bankruptcy Loss) paid as a result of any plan confirmation that was later dismissed because of plan failure, subtract the interest accrual on the principal portion of the Type 5 loss payment from plan confirmation date to plan dismissal date.--\*

## Loss Claims (Continued)

### **G Final Loss Claim Interest Accrual With Borrower-Initiated Litigation (Estimated Loss Previously Paid)**

\*--The claim should include the entire debt and interest accrued to date of the claim. Subtract out the previous estimated loss payment plus the interest that accrued between the first estimated payment and the litigation filing date, and subtract interest accrued from the order ending litigation and the final loss claim date.

**Example:** Lender files estimated loss claim on day 130. Information is complete. FSA approves loss claim on day 160. Lender receives payment on day 170. Borrower files lawsuit that prohibits lender from liquidating on day 200. Lawsuit is--\* dismissed on day 300. Lender completes liquidation and submits final loss claim on day 350. FSA approves final loss claim on day 400. Lender receives 280 calendar days of interest accrual. (Lender gets 170 {130 + 40} + 100 for litigation deliberations + 10 calendar days for FSA processing over 40 calendar days). Final loss calculation will subtract out estimated loss payment accounting for 160 calendar days of interest the lender has already been paid.

### **H Final Loss Claim Post Reorganization Bankruptcy Plan Completion**

Handled the same as any other liquidation.

**Note:** Principle and interest begins with balances at bankruptcy plan completion date.

**Comparison Guide for Loss Claim Decisions and Appeals**

<b>Subject</b>	<b>2-FLP</b>	<b>2004 CFR</b>	<b>FmHA Instructions 1980-A and 1980-B</b>
<b>90-day interest accrual.</b>	Subparagraphs 355 E, 359 A, and 360 F	762.149(d)(2)	1980.146 (d)(1)(V), 1980.146 (e)(1), and 1980, Subpart A, Appendix B (D) (2)
<b>Protecting loan collateral in bankruptcy, foreclosure, insolvency, or any other litigation.</b>	Subparagraphs 264 A, 341 A, and 360 F	762.142(a)(6), 762.148(a), and 762.149(h)(6)(i)	1980.130 (j) and 1980.144
<b>Lender fails to contact borrower or takes no action to cure default.</b>	Subparagraphs 19 C and 360 F	762.103 and 762.149(h)(6)(i)	1980.145
<b>Unauthorized release of security proceeds.</b>	Subparagraphs 15 C, 264 A, and 360 F	762.103, 762.142(a)(5), 762.142(b), and 762.149(h)(6)(ii)	1980.130 (k)
<b>Failure to inspect collateral.</b>	Subparagraphs 19 C, 264 A, and 360 F	762.103, 762.142(a)(3) and (4), and 762.149(h)(6)(ii)	1980.130 (i)
<b>Failure to verify ownership or possession of security.</b>	Subparagraphs 264 A and 360 F	762.142(a)(2) and 762.149(h)(6)(ii)	1980.130 (b) and 1980.130 (d)
<b>Protective advances.</b>	Subparagraphs 359 E and 360 D	762.149(e)	1980.136
<b>Fraud, misrepresentation, and negligent servicing.</b>	Subparagraphs 19 B, 19 C, and 360 F	762.103 and 762.149(i)(6)	1980.130

# Secondary Market - a Lender Marketing tool

## Part 15 of 2-FLP Guaranteed Loan Making and Servicing Handbook

- ▶ The secondary market is a tool that will allow the lender to sell the guaranteed portion of a loan. This guaranteed loan sale is referred to as an assignment with FSA because the lender is assigning the benefits to another party (holder) in return for cash. Through the secondary market, the lender may:
  - ▶ Reduce their interest rate risk
  - ▶ Increase liquidity
  - ▶ Increase return on investment
  - ▶ Increase the flexibility of loan terms
- ▶ Typically the lender will assign the entire amount (80-95% guarantee) to a designated holder. Line of Credit (LOC) loans may not be assigned. The lender will always retain the unguaranteed portion. It may carry separate interest rate.
- ▶ The process to transfer to the secondary market **has changed**.

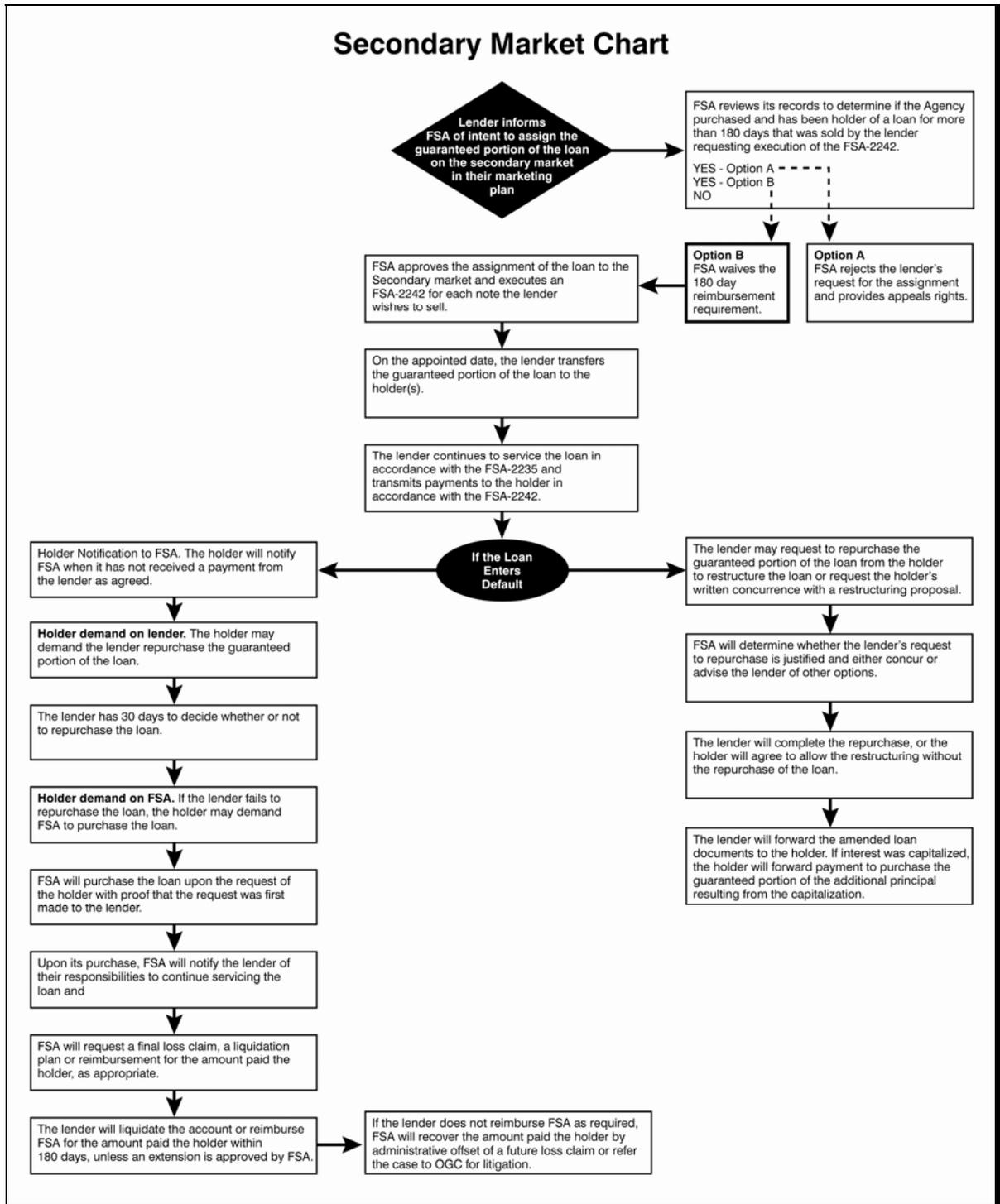
## Secondary Market - a Lender marketing tool (Cont.)

- ▶ In your packet of materials there is a flow chart for reference.
- ▶ **2-FLP Paragraph 374 C** discusses the changes to transferring to the Secondary Market. The chart on those pages will be helpful in the process.
- ▶ NOTE: **FSA-2242 Assignment of Guarantee** will be digitally signed by FSA. There are some cases where the lender may not accept the digital signature. Please advise the FSA State Office - Guaranteed Farm Loan Specialist of those situations.
- ▶ NOTE: When selling to Farmer Mac II - ensure the payment date is the 1<sup>st</sup> of the month. It saves time later when closed - FM will request a modification or allonge correcting the payment due date.
- ▶ An allonge may be required.

373 Overview of the Secondary Market for FSA Guaranteed Loans (Continued)

B Secondary Market Flowchart

Following is the secondary market flowchart.



**374 Agency Requirements (7 CFR 762.160)****A Secondary Market Loan Requirements**

**Subject to Agency concurrence, the lender may assign all or part of the guaranteed portion of the loan to one or more holders at or after loan closing, if the loan is not in default. However, a line of credit can not be assigned. The lender must always retain the unguaranteed portion in their portfolio, regardless of how the loan is funded.**

**The Agency may refuse to execute the Assignment of Guarantee and prohibit the assignment in the case of the following:**

- **The Agency purchased and is holder of a loan that was assigned by the lender that is requesting the assignment.**
- **The lender has not complied with the reimbursement requirements of § 762.144 (c)(7) (paragraph 376), except when the 180 day reimbursement or liquidation requirement has been waived by the Agency.**

**The guaranteed portion of the loan may not be sold or assigned by the lender until the loan has been fully disbursed to the borrower.**

**The lender is not permitted to assign any amount of the guaranteed or unguaranteed portion of loan to the applicant or borrower, or members of their immediate families, their officers, directors, stockholders, other owners, or any parent, subsidiary, or affiliate.**

**Upon the lender's assignment of the guaranteed portion of the loan, the lender will remain bound to all obligations indicated in the Guarantee, Lender's Agreement, the Agency program regulations, and to future program regulations not inconsistent with the provisions of the Lenders Agreement. The lender retains all rights under the security instruments for the protection of the lender and the United States.**

The lender may assign all or part of the guaranteed portion of the loan to 1 or more holders at or after loan closing if the loan is not in default and proceeds have been fully disbursed.

Only the guaranteed portion of a loan may be assigned on the secondary market. In a secondary market assignment, the guaranteed portion of the loan is transferred to a holder while the lender keeps servicing responsibilities for the loan.

374 Agency Requirements (7 CFR 762.160) (Continued)

**B Secondary Market LOC Requirements**

LOC's may not be assigned. However, the lender may obtain funding for LOC's from other sources. The lender retains the note, the collateral securing the note, and all responsibility for loan serving and liquidation. The guarantee is applicable only to the primary lender.

**C Transfer to the Secondary Market**

Lenders generally market guaranteed loans to investors through an intermediary or directly to Farmer Mac.

Lenders are regularly contacted by and normally maintain a list of brokers or dealers interested in the purchase of FSA Guaranteed Loans. In an average transaction, lenders take the following steps to make a typical sale of a guaranteed loan on the secondary market.

\*--

Step	Who	Action
1	Lender	Contacts several brokers or Farmer Mac for bids on the loan. The brokers will need to know: <ul style="list-style-type: none"> <li>• loan amount and size of the guaranteed portion</li> <li>• coupon rate (variable or fixed)</li> </ul> <p style="margin-left: 40px;"><b>Note:</b> If variable, the broker will need to know the interest adjustment period.</p> <ul style="list-style-type: none"> <li>• if it is a new loan, when the loan will be funded</li> <li>• maturity date</li> <li>• payment schedule.</li> </ul>
2	Lender	Determines the loan servicing fee. Obtain a commitment on the loan servicing fee, usually ranging from 0.4 to 2 percent.
3	Lender	Selects a bid. Analyze all the offers, select the most appropriate, and contact the winning broker. <b>Negotiations concerning premiums, fees, and additional payments for loans are to take place between the holder and the lender. The Agency will participate in these negotiations only as a provider of information.</b>

--\*

374 Agency Requirements (7 CFR 762.160) (Continued)

C Transfer to the Secondary Market (Continued)

\*--

Step	Who	Action
4	Holder	Sends a purchase commitment letter or sales agreement to the lender.
5	Lender	<p>Closes the loan transaction and notifies FSA that the loan is being assigned. The lender forwards the following to FSA:</p> <ul style="list-style-type: none"> <li>• copy of the signed commitment letter or sales agreement</li> <li>• original FSA-2242 with the lender’s signature.</li> </ul> <p>These items are in addition to the other documents required for FSA to issue the Loan Guarantee.</p>
6	FSA	<p>Determines whether the loan is eligible to be sold. If eligible, FSA then verifies that the information on FSA-2242 is consistent with FSA-2235 and the promissory note.</p> <p>FSA will then digitally sign FSA-2242 and e-mail the encrypted FSA-2242 <b>directly</b> to the holder listed in item 3 and the lender. If the holder requests a hard copy, the authorized agency official will mail the hard copy directly to the holder along with a cover letter, including USDA letterhead as verification of the guarantee.</p>
7	Holder	<p>Executes FSA-2242 and retains FSA-2242 in their files along with FSA-2235. Copies of the executed FSA-2242 shall be forwarded to FSA and the lender according to the holder’s procedure. Some holders have electronic retention of documents available to lenders and do not return a hard copy of FSA-2242 to the lender or FSA.</p> <p>It is not necessary for FSA to have a hard copy of a fully executed FSA-2242, unless the holder has requested FSA to repurchase the loan.</p>
8	Holder	Wires the funds to the lender on the settlement date.

--\*

## 374 Agency Requirements (7 CFR 762.160) (Continued)

**D Executing FSA-2242's**

The lender shall provide FSA with copies of all appropriate forms used in the assignment.

If a lender intends to assign the loan to the secondary market, they should inform FSA of their plans during the post-closing review (subparagraph 247 A).

In assigning a loan on the secondary market, lender will occasionally break the loan into more than 1 note. For each note, FSA will need a separate Loan Guarantee and the lender/broker or holder will need to execute a separate FSA-2242. See subparagraph C.

Once the lender accepts a specific buyer's offer, the lender should notify FSA that the loan is being assigned. The authorized agency official should inform the lender that they must submit FSA-2242 to FSA for execution.

**Note:** The authorized agency official shall execute FSA-2242 after reviewing it according to this subparagraph. FSA-2242 does not have to be signed by the holder before FSA approval of the assignment. After execution by the lender and FSA, the holder will execute it and return a copy to FSA for retention in the borrower's FSA file.

Before executing FSA-2242, the authorized agency official should review the documents to determine the following items.

- To whom is the loan being assigned? According to subparagraph A, a loan may not be assigned to the borrower or someone who has a relationship to the borrower or is an owner or subsidiary of the lender itself.
- Is the loan delinquent? Delinquent loans may not be assigned into the secondary market.
- Is the lender attempting to assign any of the unguaranteed portion of the loan? The lender is only permitted to assign the guaranteed portion of the loan into the secondary market.
- Is FSA currently holding the guaranteed portion of a loan that was purchased more than 180 calendar days after the lender refused the request to repurchase from the holder?

**374 Agency Requirements (7 CFR 762.160) (Continued)****D Executing FSA-2242's (Continued)**

After the authorized agency official is satisfied that all 4 of these conditions are met,  
\*--FSA-2242 will be executed and e-mailed to the holder.--\*

**The lender will send the holder the borrower's executed note attached to the Guarantee.**

**The holder will succeed to all rights of the guarantee pertaining to the portion of the loan assigned.**

**The holder, upon written notice to the lender and the Agency, may assign the unpaid guaranteed portion of the loan.**

**The holder must assign the guaranteed portion back to the original lender if requested for servicing or liquidation of the account.**

**The Guarantee or Assignment of Guarantee in the holder's possession does not cover:**

- **Interest accruing 90 days after the holder has demanded repurchase by the lender, except as provided in the Assignment of Guarantee and § 762.144(c)(3)(iii)**
- **Interest accruing 90 days after the lender or Agency requested the holder to surrender evidence of debt repurchase, if the holder has not previously demanded repurchase.**

**Allonge to Promissory Note**

This allonge is taken to modify the original terms of the Promissory Note dated \_\_\_\_\_ executed by \_\_\_\_\_ and \_\_\_\_\_ (Borrowers) with the \_\_\_\_\_ (Lender/financial institution name) and will be attached to the Original Note Number dated \_\_\_\_\_.

Original Note No. \_\_\_\_\_ is now recognized to be tied to a guaranteed loan with the Farm Service Agency (FSA) on the date below signed by the borrower(s) and the Lender. This date is also considered the "closing date" for FSA's guaranteed loan. Terms and Conditions are recognized in the Conditional Commitment dated and accepted by the Lender on \_\_\_\_\_.

As of \_\_\_\_\_ (date signed below), the principal amount is \$\_\_\_\_\_ together with accrued interest of \$\_\_\_\_\_.

*(Lender may find it necessary to describe any interest rate changes, maturity date (cannot exceed that which is described in the Conditional Commitment) or collateral requirements that are now described differently than on the Note or Loan Agreement.) – Insert N/A if there are no deviations from the Promissory Note:*

\_\_\_\_\_  
\_\_\_\_\_

**Borrower(s):**

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**Lender:**

\_\_\_\_\_  
By: \_\_\_\_\_  
(authorized representative)

Date: \_\_\_\_\_

*Original attached to Promissory Note  
Copy to Borrower  
Copy to Farm Service Agency*

# Digital Signature

## ▶ What is a digital signature?

- ▶ It is an electronic signature that can be used to authenticate the identity of the sender of a message or the signer of a document.
- ▶ It is easily transportable
- ▶ It has a digital certificate to validate the signer's identity.
- ▶ It is secure and cannot be copied, tampered, or altered.

## ▶ Who can participate in FSA's digital signature initiative?

- ▶ Currently FSA cannot accept digital signatures from lenders. But it is authorized internally for FSA officials.
- ▶ Certain FSA PDF documents are acceptable to use with a digital signature ie: Conditional Commitment and Loan Guarantee
- ▶ **See your personal invitation in your handout!**

## **FSA Digital Signatures**

- ❖ **What is a digital signature?**
  - It is an electronic signature that can be used to authenticate the identity of the sender of a message or the signer of a document.
  - It is easily transportable
  - It has a digital certificate to validate the signer's identity.
  - It is secure and cannot be copied, tampered, or altered.
- ❖ **Who can participate in FSA's digital signature?**
  - Authorized for FSA officials only. Currently we cannot accept digital signatures from lenders.
  - Certain FSA PDF documents are acceptable to use with a digital signature.
    - FSA 2232 – Conditional Commitment
    - FSA 2235 – Loan Guarantee

### **WHY DO YOU – the FSA Guaranteed Lender – want to use it?**

- ❖ **Participation in digital signature is optional**
  - However, the benefits outweigh the cons with the efficiency of eliminating mail time
  - Many lenders already scan in their loan docket – providing the Conditional Commitment and Loan Guarantee means it will already be done for you!
- ❖ **One form is currently required to be digital**
  - If a lender uses the secondary market, Form FSA 2242, Assignment of Guarantee, will be signed digitally and transmitted to the Holder by FSA (after lender signature)

Note: The secondary market process will be discussed later.

### **How do I get started? See your personal invitation in your handout and contact your local FSA FLP staff today!**

Digital Signature authenticates the document and who the sender is; however, Lenders may also receive the Conditional Commitment and Loan Guarantee via encrypted email. Any FSA Loan Official may sign the documents, in ink, scan the document and email to the lender (encrypted) to bypass the U. S. Postal Mail Service. If preferred, the lender may also, in turn, sign the document accepting the conditions (Page 4) of the Conditional Commitment and return by email. Likewise, when closing the FSA guaranteed loan, the lender may utilize email (encrypting the documents) to transmit document to FSA. Some lenders have secured mail systems and may also invite FSA to gather documents required for the guaranteed loan by that method. Scanning and email documents is purely at the option of the Lender and FSA.

Efficiency at its best – in the 21<sup>st</sup> century.

# Digital Signature

- ▶ **Participation in digital signature is optional**
  - ▶ However, the benefits outweigh the cons with the efficiency of eliminating mail time
  - ▶ Many lenders already scan in their loan docket - providing the Conditional Commitment and Loan Guarantee will already be done for you!
- ▶ **One form is currently required to be digital**
  - ▶ With the secondary market process as previously discussed, Form FSA 2242, Assignment of Guarantee, will be signed digitally and transmitted to the Holder by FSA (after lender signature)
- ▶ **How do I get started?**
  - ▶ See your personal invitation in your handout and contact your local FSA FLP staff today!



Farm and  
Foreign  
Agricultural  
Services

May 26, 2015

Farm  
Service  
Agency

RE: FSA's Digital Signature

Adrian J. Polansky  
State Executive Director

Dear FSA Guaranteed Loan Lender:

Kansas FSA State Office  
3600 Anderson Avenue  
Manhattan, KS 66503

Farm Service Agency (FSA) is excited to announce the use of digital signatures by Farm Loan Program (FLP) officials. Beginning June 1<sup>st</sup>, FLP officials will have the capability to digitally sign a limited number of guaranteed loan program forms and correspondence. The Electronic Signatures in Global and National Commerce Act (E-Sign Act), Pub. L. 106-229, ensures that a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form.

PH (785) 539-3531  
FAX (785) 537-9659

FLP officials will be digitally signing several authorized documents. Forms authorized for FSA's guaranteed loan program will be limited to the following forms:

- Form FSA-2232, Conditional Commitment
- Form FSA-2235, Loan Guarantee
- Form FSA-2242, Assignment of Guarantee
- Incomplete application notification letters
- General correspondence.

These forms and documents will be provided to you by e-mail, encrypted and password sensitive. The password will be uniform and identified early in the process. Another alternative will be to use Fax2Mail.

To ensure that you receive all FLP documents provided via e-mail, please provide the office that you work with, either your group e-mail address or the e-mail addresses for at least two individuals, along with their name and phone number.

If you have any questions or concerns, please e-mail the FSA County Office – FLP Staff you work with or call their office. You may also email Shelly Wolf, Farm Loan Specialist at [shelly.wolf@ks.usda.gov](mailto:shelly.wolf@ks.usda.gov) or call 785.564.4765.

Sincerely,

ADRIAN J. POLANSKY  
State Executive Director

# What's up next and coming within USDA FSA?

- ▶ *FSAfarm+* - a Customer Self-Service Portal
  - ▶ In the 2014 Farm Bill, USDA was mandated to share producer information to the producer and/or a designated agency in a web-based file format.
  - ▶ Producer Accessibility will include:
    - ▶ Viewing data associated with the farms they operate
    - ▶ Export CLU shapefiles for the farms
    - ▶ Print all farm and tract level details (similar to FSA-156EZ)
    - ▶ Print farm and/or tract maps
- ▶ Direct FO - Microloan
- ▶ Guaranteed Microlender Program
- ▶ Guaranteed OL and FO - Microloan

# QUESTIONS??

# What's up next and coming within USDA FSA?



## What is the FSAfarm+?

With **FSAfarm+**, producers will have web access to view their FSA data such as the common land unit data, related farm data, and other producer information. This data will be available in real time and at no cost to the producer. This functionality allows operators and owners to view, export and print farm records data, including maps, from their own home through a public facing web portal. Direct access will permit the operators and owners to electronically share their data, which could include maps, with a crop insurance agent, from their own personal computer.

The initial launch of **FSAfarm+** will allow farm operators and owners to access their farm and contact information. Operators and owners that are business entities can be accessed by entity members. A future release will allow access to agents or representatives of farm operators and owners, in addition to allowing other farm tenants access to information related to the land they lease.

Additional Information, including FSAfarm+ Fact Sheet, a "How to" Brochure and more:

<http://origin2.www.fsa.usda.gov/online-services/farm-plus/index>

## USDA – FSA Microloan Program has expanded to include Direct Farm Ownership (FO).

The focus of Microloans is on the financing needs of small, beginning farmer, niche and non-traditional farm operations, such as truck farms, farms participating in direct marketing and sales such as farmers' markets, CSA's (Community Supported Agriculture), restaurants and grocery stores, or those using hydroponic, aquaponic, organic and vertical growing methods. The maximum loan amount for either a D-FO-ML or D-OL-ML is \$50,000.

Additional information on the web:

<http://www.fsa.usda.gov/programs-and-services/farm-loan-programs/microloans/index>

### Direct Farm Ownership Microloans

- \*No appraisal needed
- \*Verification of non-farm income unnecessary unless required for repayment
- \*Successful repayment of an FSA Youth loan may be used towards the required 3 years of management experience
- \*Maximum term of 25 years

### Direct Farm Operating Microloans

- \*The Microloan program allows for situations where production yield history or reporting is impractical, not relevant to the proposal submitted, or is not available.
- \*Modified farm managerial experience requirements accommodate smaller farm operations, beginning farmers, and those with no farm management experience. Small business experience plus any farm experience, along with a self-guided apprenticeship, is a way to meet the farm management requirement.
- \*Rural Youth loan recipients with a successful repayment history, or youth who have participated in an agriculture-related organization, can meet the modified managerial ability requirements with those experiences.

## Guaranteed Accredited Microlender Program

- o This new lender status, Accredited Micro Lender (AML), will allow FSA to increase collaboration with Community Development Financial Institutions (CDFI's) and assist smaller agricultural producers typically in underserved areas. Establishing a stronger working relationship with CDFIs will be beneficial
- o FSA and CDFIs share a common goal of assisting underserved areas, including agricultural credit deserts, such as Indian Country or to Veterans.
- o A traditional Ag Lender may also request Microlender status.

## Guaranteed OL and FO Microloan Program – Loan Limit - \$50,000

- o For FY 2014 the top five states with the highest percent of guaranteed loans under \$50,000 were:
  - o NH – 53.3%
  - o MA – 35.7%
  - o PA – 20.6%
  - o NM – 19.6%
  - o VT – 16.7%
- o Because of the smaller loan limit, the agency will be proposing a one-page true/false yes/no questions with online submission and approval for Level 2 eAuth LINC Lenders.
- o Outreach, Training and information will be forthcoming in a future webinar. Stay tuned!

## **Just a click away:**

**[www.fsa.usda.gov/ks](http://www.fsa.usda.gov/ks)**

How to contact FSA County Office Personnel (click on County Offices) in browse by subject!

**[www.fsa.usda.gov](http://www.fsa.usda.gov)**

Popular Topics here include:

FSA Farm Bill

FSA Fact Sheets

ARC/PLC

Dairy Margin Protection Program web tool

Conservation Compliance Requirements

### **Looking for the 2-FLP Guaranteed Loan Making and Servicing Handbook?**

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=empl&topic=hbk>

### **Need fillable FSA Forms, online?**

<http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>

Click Browse Forms or with a Level 2 eAuth access, you can save and submit to your local County Office.

### **Want to request Level 2 eAuth access? Benefit = online submission of semi-annual and default status reports.**

<https://www.eauth.usda.gov/MainPages/eauthsitemap.aspx>

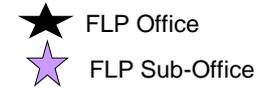
Kansas USDA FSA State Office thanks you for your attendance! Contact information:

<b>Robert (Bob) White</b>	<b>Shelly Wolf</b>
<b><a href="mailto:Robert.white@ks.usda.gov">Robert.white@ks.usda.gov</a></b>	<a href="mailto:Shelly.wolf@ks.usda.gov">Shelly.wolf@ks.usda.gov</a>
<b>KS FSA State Office</b>	
<b>3600 Anderson Avenue</b>	
<b>Manhattan, KS 66503-2511</b>	
<b>PH: 785.564.4759</b>	PH: 785.564.4765
<b>Fax: 855.782.9610</b>	Fax: 855.782.9610

# KANSAS FSA - FARM LOAN PROGRAMS

## OFFICE LOCATIONS AND AREAS OF RESPONSIBILITY

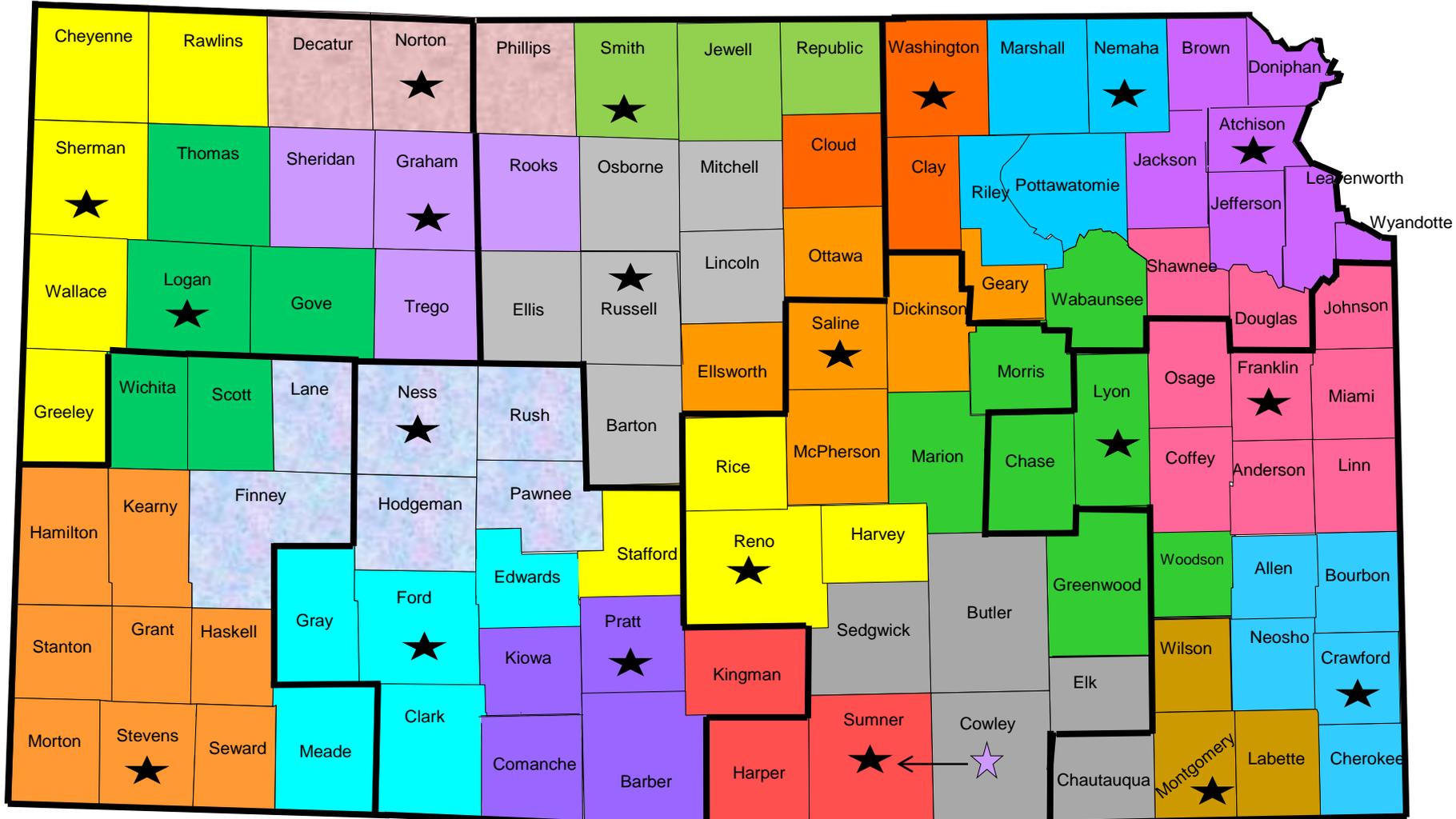
(Effective December 13, 2015)



District 1 – Dennis Mote

District 2 – Lynn Peterson

District 3 – Rick Abel



District 7 – Pam Woodruff

District 6 – Aaron Fall

District 5 – Rick Case

District 4 – Charles Pettijohn