

PRINCIPLES OF FARM DEBT RESTRUCTURING

To meet the needs of agricultural producers who may be having financial difficulties, the WBA Ag Bankers Section Board felt it was appropriate to develop some principles that would help guide the membership when the need for loan restructuring arises.

Customer Success is the Overriding Principle

Bankers want to see their farm customers thrive and will work with their customers during good times and bad.

Customer Equity Considerations

Sometimes the best option for a financially troubled borrower is for them to preserve their equity by liquidating the business. The decision to liquidate is not easy, but many times is the best solution in a number of situations. Bankers will work with their customers to help them decide the best course of action.

Honesty:

Customers must make a good faith effort to abide by any existing loan agreements that were executed when the credit was first obtained. For example, they must not sell collateral out of trust. If a customer violates the basic business security agreement(s) and sells assets that are collateral for the loan in question, and does not apply the proceeds from the sale of the assets to the outstanding loan, this action will limit the bank's ability to do problem mitigation with the borrower.

Communication:

Every borrower and lender relationship demands open and honest communication. The identification of distress in a loan relationship should not change the communication process. Timeliness and the expectations for both the borrower and the bank need to be clearly communicated on a regular and ongoing basis.

Responsibility for Problem Identification:

In most distressed loan situations, insufficient repayment capacity is the root cause of the problem. As the owner of the farm business, the borrower is primarily responsible for developing a plan to cure the problem. The lender's responsibility is to review the borrower's plan and to advise the borrower on the feasibility of the plan, and if the plan fits within the underwriting standards of the bank.

Plan Development:

The borrower typically identifies potential expense reductions, any potential for additional farm income, consider the potential for non-farm income, identifies excess assets to sell, or decides to liquidate the entire business. The borrower may ask for time to allow him or her to refinance his or her debt with another credit source.

Evaluation of the Plan:

The feasibility of the business plan completed by the borrower must be evaluated by the bank to determine the farm management's ability to succeed, the adequacy of collateral for the loan, and the ability of the operation to meet debt service requirements. Deadlines for the execution of asset sales, expense reductions, refinancing of debt by another source, or the acquisition of non-farm employment are set and are mutually agreed to by the borrower and the banker. Once a plan is agreed to, the bank typically notifies the borrower in writing.

Plan Execution:

Once the plan is completed and approved, bankers may use several tools to assist distressed borrowers. Not all banks will offer the same options. What each individual bank will do is dependent upon the risk tolerance of management, the loan policy of the individual bank, regulatory circumstances, and other factors (i.e. such as whether or not the loan has been sold or participated).

Monitoring the Plan:

When a plan is agreed to by a borrower and the bank, it must be monitored by both parties for performance compliance. Mutually agreeing to a set of objectives to be met on an agreed upon schedule is of the utmost importance.

Resolution of the Problem:

Once the problem period has passed, and the business has recovered, the borrower is expected to return to the original repayment plan unless otherwise agreed to.

Bankruptcy:

At all times, farm business owners have the option to try to restructure their business debt through bankruptcy, including Chapter 12 which is reserved for family farmers who are defined in the statute. In addition to Chapter 12, farmers have Chapter 11, 7, and 13 available to them depending upon their individual circumstances.