

Risk Management Agency Interpretation of FCIC Provisions:

Subject: Request dated July 15, 2020, to the Risk Management Agency for an interpretation regarding whether section 3(a)(4) or 3(e) of the 2017 Whole-Farm Revenue Protection (WFRP) Pilot Policy and subparagraph 21(1)(d) of the 2017 WFRP Pilot Handbook allows a partner who files taxes on a fractional share of farming activity conducted by the partnership may insure that fractional share under a WFRP policy if the partner is an originating pass-through entity for its share of the commodities produced through the partnership.

The relevant policy provision provided by the requestor is section 3(a)(4):

3. Eligibility

(a) *To be considered a qualifying person, you must:*

...

(4) *The Schedule F, or Substitute Schedule F, must cover 100 percent of your farm operation. (A tax entity which reports a fractional share of farming activity conducted by a partnership, corporation or any other “joint venture” does not qualify for WFRP coverage on the fractional share of farming activity); ...*

(e) *Originating pass-through entities may insure the allowable revenue from commodities produced by the farm operation under WFRP. Owners of a pass-through entity that are not the originating entity may not insure pass-through revenue or loss under WFRP.*

The relevant handbook procedure provided by the requestor is subparagraph 21(1)(d):

21. Eligibility

(1) *To be considered eligible for a WFRP policy, the insured must:*

...

(d) *have a Schedule F, or Substitute Schedule F that covers 100 percent of their farm operation. A tax entity which reports a fractional share of farming activity conducted by a partnership, corporation or any other “joint venture” does not qualify for WFRP coverage on the fractional share of farming activity. However, a tax entity may still qualify for WFRP coverage on a fractional share of a commodity in which they have an insurable interest.*

Interpretation Submitted by Requestor(s)

The requestors’ interpretation is that section 3(a) of the 2017 WFRP Pilot Policy sets forth several criteria that must be satisfied in order to be considered a “qualifying person.” If one or more of these criteria are not met, an entity is not eligible for WFRP coverage. Whether the partner pays its taxes directly or is a pass-through entity is of no significance to the “fractional share” restriction set forth in section 3(a)(4).

As clearly set forth in the policy and handbook, section 3(e) establishes an additional condition of insurability for pass-through entities. This provision is in addition to, and not a replacement for, the “qualifying person” criteria in section 3(a). The prefatory language in section 3(a) indicates that, “[t]o

be considered a qualifying person, you must” meet the criteria set forth under subparagraphs (1) through (6). As such, any entity that fails to meet all the criteria under section 3(a) is not a qualifying person and is ineligible for WFRP coverage. That is, even if an entity meets the pass-through insurability requirement of section 3(e), it must also meet the qualifying person criteria in section 3(a) in order to be eligible for WFRP coverage.

Federal Crop Insurance Corporation Determination

FCIC agrees with the requestors’ interpretation that section 3(e) does not supersede any requirement within section 3(a); specifically, 3(a)(4) of the 2017 WFRP Pilot Policy states that a partner who files taxes on a fractional share of farming activity conducted by the partnership cannot insure that fractional share, even if the partner is an originating entity for its share of the commodities produced through the partnership. Subparagraph 21(1)(d) of the 2017 WFRP Pilot Handbook clarifies section 3(e) of the policy while providing guidance of when a fractional share of a commodity may be eligible for coverage.

In accordance with section 33(a)(1) of the WFRP Pilot Policy, this FCIC interpretation is generally applicable and binding in any mediation or arbitration. In accordance with section 33(a)(1), any appeal of this interpretation must be in accordance with 7 C.F.R. part 11.