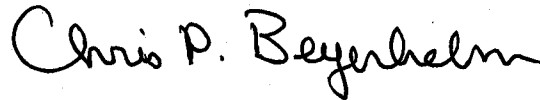


For: State and County Offices

Collection Through Cross-Servicing and Debt Settlement of Uncollectible FLP Debt

Approved by: Acting Deputy Administrator, Farm Loan Programs



1 Overview

A Background

The Debt Collection Improvement Act of 1996 (DCIA) requires FSA to refer all eligible delinquent debt, including judgments, equity receivables, and leases, to Treasury for cross-servicing and the Treasury Offset Program (TOP). Referral to Treasury for cross-servicing and TOP must be considered before processing debt settlement offers under RD Instruction 1956-B. If a greater recovery of taxpayer dollars is possible through referral to Treasury cross-servicing, then the debt must be referred to Treasury.

This notice:

- continues the policy established in Notice FLP-456
- provides clarification that FLP will **not** refer nonjudgment debt to cross-servicing and TOP if the 10-year Statute of Limitation (SOL) for IRS offset has expired
- changes Instruction references to 5-FLP.

B Purpose

This notice provides guidance on the following:

- classifying debt as currently not collectible (CNC)
- referring debt to Treasury for cross-servicing
- servicing debt referred for cross-servicing
- servicing debt after it has been returned from Treasury
- canceling uncollectible debt.

Disposal Date	Distribution
November 1, 2009 10-27-08	State Offices; State Offices relay to County Offices

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1 Overview (Continued)

C Contact

If there are questions about this notice:

- County Offices shall contact the State Office
- State Office shall contact:
 - Mary Durkin, LSPMD at 202-720-1658 for cross-servicing and TOP policy issues
 - Financial Services Center (FSC), Farm Loan Operations Office (FLOO), Program Reporting Group (PRG) at 314-539-2494 for cross-servicing and TOP processes.

2 Cross-Servicing

A Classifying Debt as CNC

DCIA requires that any nontax debt or claim owed to the United States that has been delinquent for a period of 180 calendar days be referred to Treasury for collection. There are several exemptions that are covered in FSA-1956-20.

All requirements listed in FSA-1956-20 must be met before classifying a debt as CNC. All debts must be classified as CNC to be referred to cross-servicing and must have been referred to TOP. The referrals of debt to cross-servicing and TOP are separate processes. However, a debt must have been certified to TOP to be referred for cross-servicing. The information on the TOP screens is used to validate eligibility for both processes.

County Offices shall prepare FSA-1956-20 to classify the debt as CNC when all security has been liquidated, the debt has been accelerated, or the loans are fully matured, and the debtor:

- does not return a complete debt settlement application within 30 calendar days of receiving 5-FLP, Exhibit 44
- submits a complete application for debt settlement that is not acceptable to FSA after receiving 5-FLP, Exhibit 44.

County Offices shall submit FSA-1956-20 to the State Office through DD.

Note: The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, § 14219) eliminated the 10-year SOL for administrative offset for collecting nonjudgment debt. The 10-year SOL for IRS offset of nonjudgment debt was **not** affected. Treasury has indicated it plans to eliminate the 10-year SOL for IRS offset through a regulatory change. Until Treasury's final rule has been published, FLP will **not** refer nonjudgment debt to cross-servicing or TOP if the 10-year SOL for IRS offset has expired.

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2 Cross-Servicing (Continued)

B Actions Required for Referring and Servicing CNC Debt

The State Office shall:

- process transaction code “3K” on the Automated Discrepancy Processing System (ADPS) with a class of write off code “5” for all debt types except leases, third party judgments, and equity receivables
- refer debts for cross-servicing by completing and submitting FSA-1956-21 to FSC, FLOO, PRG by FAX at 314-539-6266

Note: Borrowers and co-borrowers (including liable spouses) shall be listed on FSA-1956-21 with their taxpayer identification numbers (TIN’s) and must be referred at the same time. If no TIN can be identified, write “TIN unknown” in FSA-1956-21, item 3A, and provide the debtor’s last known address. The debt will be referred to cross-servicing manually. Debts without TIN cannot be referred to TOP.

- respond to each dispute on the debt

Note: Multiple disputes on the same debt may be received because Treasury and 2 different private collection agencies (PCA’s) try to collect the debt. If Treasury does not receive FSA’s dispute response within 60 calendar days, the debt will be returned as uncollectible.

- recall debts from cross-servicing when they no longer meet CNC requirements, such as bankruptcy protection or IRS SOL expiration, by completing and FAXing FSA-1956-22, with supporting documentation, to FSC, FLOO, PRG at 314-539-6266.

Note: These debts should be deleted immediately on the TOP screens, if applicable.

FSC, FLOO, PRG shall:

- refer debt listed on FSA-1956-21 to Treasury for cross-servicing on a monthly basis
- provide State Offices a report of all loans submitted with each referral to Treasury
- recall CNC debt from cross-servicing as needed
- notify State Offices when the following occur:
 - debts are disputed
 - compromises are offered
 - initial cross-servicing payments are received
 - debts are returned from cross-servicing
 - debt has been resubmitted per State Office request.

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2 Cross-Servicing (Continued)

C FSA Collection Activity

Treasury regulations require that FSA stop all collection activity on debts referred for cross-servicing, except TOP offsets, Federal salary offsets, and internal administrative offsets.

Debtors referred to cross-servicing are provided with payment instructions from Treasury and/or PCA's. Debtors must make their payments to Treasury or PCA because there is a significant Treasury/PCA fee debtors must pay.

When a voluntary payment is received from a CNC borrower, the:

- County Office shall call the State Office
- State Office shall check the borrower's current cross-servicing status on FedDebt.

Note: If needed, call FSC, FLOO, PRG at 314-539-2494 for assistance.

If the account has been referred to cross-servicing, the State Office shall notify the County Office to:

- prepare a memorandum to FSC, FLOO, PRG stating the following:
 - payment should have been sent to cross-servicing
 - amount of the check
 - debtor's name
 - TIN
 - relationship to the borrower's or co-borrower's loan
 - case number and loan number
- mail the check and memorandum to the following.

Farm Service Agency
Farm Loan Operations Office, FC-533
Attn: Carolyn Lane
P.O. Box 200003
St. Louis, MO 63120-0003

Borrowers referred for cross-servicing will continue to have FSA-2065 and, if applicable, IRS Form 1098 generated at calendar year-end if the account had activity. County Offices shall forward FSA-2065 to the borrower and a copy to the State Office.

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2 Cross-Servicing (Continued)

D Discrimination Complaints

Accounts involved in an administrative discrimination complaint are **not** eligible for cross-servicing or TOP. If a debtor files a program discrimination complaint and USDA’s Office of Adjudication and Compliance accepts the complaint as valid, immediately delete the debt on the TOP screens and FAX FSA-1956-22 and supporting documentation to FSC, FLOO, PRG at 314-539-6266 to recall the debt from cross-servicing. These debtors will need to be deleted on the TOP quarterly selection screens until implementation of the “MOR1” flag. See Notice FLP-508 and successive guidance for additional requirements about accepted administrative discrimination complaints.

E Debt Settlement Offers

CNC debt may be settled by FSA upon application by the borrower, **if the debt has not been referred to Treasury for cross-servicing, or if all of the borrower’s loans have been returned from cross-servicing.** If a CNC borrower submits or inquires about a debt settlement application, the State Office shall access the FedDebt system to determine whether the account has been referred for cross-servicing.

IF the account has...	THEN inform the borrower that...
<ul style="list-style-type: none"> • been referred for cross-servicing • at least 1 loan still at cross-servicing 	<p>the debt is now at Treasury and negotiations need to be with Treasury. Borrowers:</p> <ul style="list-style-type: none"> • may contact Treasury at 1-888-826-3127 • have no appeal rights for settlements rejected by Treasury and returned to FSA.
<p>either of the following:</p> <ul style="list-style-type: none"> • not been referred for cross-servicing • all of the borrowers’/co-borrowers’ loans have been returned from cross-servicing 	<p>a debt settlement offer may be considered. See RD Instruction 1956-B for processing debt settlements.</p>

If a debt settlement offer is received after the State Office has submitted the debt for cross-servicing referral on FSA-1956-21 but the debt has not yet been referred, the State Office should notify FSC, FLOO, PRG immediately by FAX at 314-539-6266. Include the terms of the debt settlement offer and request a delay in referring the debt for cross-servicing until a decision is made. Notify FSC, FLOO, PRG immediately when a decision is made. If the offer is rejected, the debt will be sent to Treasury for cross-servicing in the next referral.

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3 Account Resolution After Referral to Cross-Servicing

A Process

Treasury will notify FSA and request concurrence for some repayment agreements and compromises. This is done on a loan-by-loan basis, not by account. In cases where a debtor has more than one FSA loan referred to cross-servicing and FSA is advised of an agreement to compromise or adjust 1 loan or several loans, but not all of the debt, SED may approve the settlement agreements on a loan-by-loan basis.

Cancellation of any loan balances remaining on the compromised or adjusted loans will **not** be processed until all:

- payments have been received as agreed
- loans eligible for referral to the cross-servicing program for that debtor have been returned, with or without payment agreements, to FSA
- co-borrower issues are resolved, including recall and returns.

By the second week of each month, FSC, FLOO, PRG can access Treasury's FedDebt system and run the Creditor Agency RTA (Return to Agency) Report for the prior month. This report reflects all FSA debts that were returned to FSA in the requested month and the reason the debt was returned.

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3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action

Debts shall be resolved according to the following.

Step	Office	Action
1	State Office	<p>State Offices shall:</p> <ul style="list-style-type: none"> • receive Treasury’s Debt Management Services (DMS) action form or concurrence request from FSC, FLOO, PRG about a repayment agreement/adjustment offer or compromise offer • receive a list of all debts Treasury has returned from cross-servicing for the month from FSC, FLOO, PRG • based upon the information in the case file, determine whether the debt is eligible for settlement through the proposed repayment/adjustment offer, compromise offer, or if the debt can be canceled. <hr/> <p align="center">Repayment/Adjustment Offers and Compromise Offers</p> <p>SED shall:</p> <ul style="list-style-type: none"> • obtain concurrence from the U.S. Attorney or FSA FLP National Office, if necessary • sign the DMS action form • ENTER “Y” or “N” in the “Approved” column, as applicable • FAX to FSC, FLOO, PRG at 314-539-6266. <p>Note: If an offer is not approved, include supporting documentation to substantiate why greater repayment is warranted. Approved agreements must not exceed 5 years according to RD Instruction 1956-B.</p>

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3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

Step	Office	Action
1 (Cntd)	State Office (Cntd)	<p align="center">Cancellation</p> <p>The account balance can be considered for cancellation when all:</p> <ul style="list-style-type: none"> • of the loans eligible for referral to the cross-servicing program have been referred but returned for the debtor and any co-debtors • payments have been received from any compromise or adjustment offers negotiated by Treasury. <p>The account balance will be canceled if there are no known collections that FSA will receive through TOP or FSA’s internal administrative offset process. Known collections are from payments that FSA is certain it will receive from offsets in the near future, such as Social Security benefits, Federal salary, farm program payments, etc., for an amount sufficient to reduce the overall balance of the debt.</p> <p>Canceling a debtor’s account balance will be completed according to RD Instruction 1956-B or RD Instruction 1956-B, Exhibit B, as appropriate. If 1 or more of a debtor’s loans have been canceled using the debt cancellation authority under the Federal Claims Collection Standards, the remaining account balance can be canceled under RD Instruction 1956-B. If a debtor has received debt forgiveness under the CONACT authorities, such as a write-down through primary loan servicing, the remaining account balance can be canceled according to RD Instruction 1956-B, Exhibit B.</p> <p>SED’s shall:</p> <ul style="list-style-type: none"> • process the loan cancellation as appropriate using RD 1956-1 • prepare a memorandum advising FSC, FLOO, PRG of the cancellation • FAX the signed memorandum to FSC, FLOO, PRG. <p>Note: The State Office shall obtain any necessary concurrence before canceling the debt.</p> <p>When canceling remaining loan balances owed on debts compromised by Treasury:</p> <ul style="list-style-type: none"> • document the information about the compromise on RD 1956-1 • process transaction code “3K” using class of write off code “1” for the compromised debt • process transaction code “3K” using class of write off code “4” for the balance of the debt returned as uncollectible • the effective date for all 3K transactions shall be the date SED or DAFLP signed RD 1956-1.

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3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

Step	Office	Action
2	FSC, FLOO, PRG	Repayment/Adjustment Offers and Compromise Offers
		FAX the signed DMS action form to Treasury. Once the full amount of the repayment/adjustment or compromise is received and applied, FAX a memorandum to the State Office notifying the State that the full amount of the repayment/adjustment or compromise has been collected and applied to the debt.
		Approved Cancellations
		When cancellations cannot be processed by the State Office, FSC, FLOO, PRG shall: <ul style="list-style-type: none"> • request RD 1956-1 for authorization of cancellation • notify the appropriate loan servicing team to process cancellations approved by SED • FAX a memorandum to the State Office once the cancellation has been completed.
3	State Office	Attach FSC, FLOO, PRG memorandums, State Office memorandums, and any applicable forms to the State Office copy of FSA-1956-20 or FSA-1956-10, if CNC was before September 11, 2000. Forward a copy of the FSC, FLOO, PRG memorandum and any applicable forms to the Farm Loan Manager.
4	County Office	File FSC, FLOO, PRG memorandums, State Office memorandums, and any applicable forms in the case file. After all payments have been processed, stamp the promissory note “Satisfied by Completed Adjustment Offer”, “Satisfied by Approved Compromise”, or “Satisfied by Approved Cancellation”, as applicable, and return the satisfied notes to the borrower. In cases where the debt is returned as uncollectible, but cannot be canceled, continue monitoring the account until it is eligible for cancellation, then process the cancellation according to RD Instruction 1956-B or RD Instruction 1956-B, Exhibit B, as applicable.