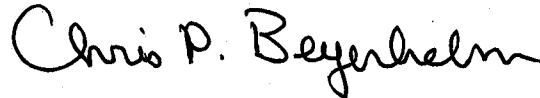


For: State and County Offices

Servicing *Pigford* Claimants and National Office FLP Programmatic Review

Approved by: Acting Deputy Administrator, Farm Loan Programs



1 Overview

A Background

The *Pigford v. Vilsack* class action settlement has affected the way FSA services delinquent loan accounts of claimants in that case. This notice continues guidance established in previous FLP notices (most recently Notice FLP-515).

B Purpose

This notice:

- provides guidance on:
 - servicing *Pigford* claimants whose claims have recently been closed and who are delinquent on their FLP debt
 - selling inventory property that was previously owned by a claimant

C Contacts

County Offices shall contact the State Office with any questions. State Offices shall contact:

- Jenny Breece, LSPMD, at 202-690-4011, for questions about this notice and the review process
- Polly Anderson, LSPMD, at 202-720-2558, for questions about the notification of final decisions
- Jeff King, LSPMD, at 202-720-1651, for inventory property issues.

Disposal Date	Distribution
October 1, 2010	State Offices; State Offices relay to County Offices

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2 Servicing Actions for Closed *Pigford* Claims

A Closed *Pigford* Claims

A claim is considered closed when a final decision has been issued. State Offices are advised by the Consent Decree Action Team when a claim is closed. All closed claims will fall into 1 of 2 categories:

- Category 1 – individuals:
 - whose *Pigford* claims have been closed and were **not** delinquent on their FLP debt at that time; or
 - who had no FLP loans
- Category 2 – individuals whose *Pigford* claims have been closed and were delinquent on their FLP debt at that time.

B County Office Action

Upon receiving notification that the claim of a *Pigford* claimant has been closed, the County Office will service the account according to the following procedure.

- **Category 1 cases require no special servicing.**
- **Category 2 cases.**
 - **Delinquent borrowers with outstanding servicing applications that have not been concluded.** Contact the borrowers to determine whether they want to continue with the existing loan servicing application or receive a new notification of the availability of loan servicing.

Note: Use Exhibit 1 to contact these borrowers.

- **For borrowers who return Exhibit 1 within 15 calendar days,** begin the loan servicing process again by sending a new notification of the availability of loan servicing according to 5-FLP, Part 3.
- **For borrowers who do not return Exhibit 1 within 15 calendar days,** continue processing the pending application.

Note: Claimants may have an appeal hearing in suspension, pending closure of their claim. When FSA is notified that the claim has been closed, FSA should notify the Appeal Hearing Officer of the closure.

2 Servicing Actions for Closed *Pigford* Claims (Continued)

B County Office Action (Continued)

- **Delinquent borrowers with no pending servicing request.** Unless the account has already been accelerated, send a new notification of the availability of loan servicing according to 5-FLP, Part 3. The decision on the *Pigford* claim may have improved borrowers' financial conditions and could affect their ability to qualify for FSA assistance.

Note: When all loan servicing rights have been concluded for Category 2 borrowers, without resolving the delinquency, submit the borrower's case file, with a completed FSA-2580 and FSA-2581, to the State Office requesting National Office review. These accounts **must** be reviewed by the State Civil Rights Review Group before submission to the National Office.

- **Delinquent borrowers whose accounts have already been accelerated.** Except for cases already held by DOJ, submit the borrower's case file, with a completed FSA-2580 and FSA-2581, to the State Office requesting National Office review. If DOJ is holding a case, the U.S. Attorney's office should be advised when the claim is closed.

Notes: Only Category 2 borrowers will receive a full file review by the National Office before acceleration or foreclosure.

If a Category 2 borrower's delinquency is cured by payment, rescheduling, writedown, or any other resolution, and a new delinquency occurs at a later date, the normal pre-acceleration review required by 1-FLP, Exhibits 12 and 13 will be performed. Likewise, Category 1 individuals who later become delinquent on any FLP debt will be subject to the same review process. A borrower's 1-time status as a *Pigford* claimant does **not** mandate a full file review for a subsequent delinquency.

C State Office Action

Upon receiving a request for a National Office review, State Offices shall:

- prepare a cover letter requesting National Office review and consent to proceed with acceleration and/or foreclosure
- forward the case file and cover letter to the National Office, with a completed FSA-2580 and FSA-2581

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2 Servicing Actions for Closed *Pigford* Claims (Continued)

C State Office Action (Continued)

- send the case file using Federal Express to the following address:

USDA FSA DAFLP LSPMD
1250 MARYLAND AVE SW SUITE 500
WASHINGTON DC 20024
202-720-4572

Note: Follow applicable AS directives for guidance on shipping Personally Identifiable Information through Federal Express, United Parcel Service, and USPS delivery systems.

D National Office Action

The National Office shall:

- review the case file for regulatory compliance to ensure that all servicing and appeal rights were properly administered **before** further consideration of acceleration and/or foreclosure
- provide written guidance to the State Office for each case **after** completing the review.

3 Servicing Actions for Pending *Pigford* Claims

A Acceleration and Foreclosure

Until individual claims are closed through the court-ordered Consent Decree process, the policy of not accelerating or foreclosing against claimants **remains in effect**. Do **not** take acceleration or foreclosure action until a claim has been closed and, for category 2 borrowers, the National Office review has been conducted according to subparagraph 2 D.

SED's must receive National Office concurrence on a case-by-case basis before accelerating loans and foreclosing on security that belongs to African American farmers who are not currently claimants under the Consent Decree, but may have a late claim affidavit pending with the Facilitator.

Note: Where there is potential fraud in borrowers' loan relationships with FSA, for example, conversion, the cases would generally be referred to OIG with copies to OGC. In cases where the borrowers are claimants, continue to refer the particulars of the situations to OIG with copies to OGC, including any applicable information about the claimant's status under the Consent Decree.

3 Servicing Actions for Pending *Pigford* Claims (Continued)

B Inventory Property

For properties acquired before and/or subsequent to the Consent Decree, if the claimant has been released, SED's shall request and receive National Office concurrence on a case-by-case basis before advertising and selling inventory property previously owned by a claimant. In all cases, if National Office approval is obtained, SED's may proceed to sell the property according to 5-FLP, Part 21.

Further guidance will be provided when concurrence is no longer necessary for selling inventory property.

Guide Letter for Borrowers in *Pigford* Settlement

[Claimant Name]
 [Claimant Address]

Claim #: [Claim #]

Dear [Claimant]:

The Farm Service Agency (FSA) has been informed that your claim under *Pigford v. Vilsack* has been closed. Unfortunately, your closed *Pigford* claim did not cure your FSA delinquent loan accounts.

Please insert the applicable paragraph.

FSA will promptly make a decision on your pending loan servicing application once it has all the information. However, if you prefer, you may request a new loan servicing application and close the existing application. If you wish to receive a new notification of the availability of loan servicing, you must sign, date, and return this letter to your local office within 15 calendar days. If you do not respond within the 15 calendar days, FSA will make a decision on your pending servicing application. Please note that even if FSA will be processing the pending servicing application, it may need to request updated financial information from you.

FSA’s decision to deny loan servicing has not been finalized. You requested an appeal from the National Appeals Division (NAD) and the appeal is pending. We will be contacting NAD and requesting that it resume the appeal. However, if you prefer, you may request a new loan servicing application and close the existing application. If you wish to receive a new notification of the availability of loan servicing, you must sign, date, and return this letter to your local office within 15 calendar days. Please note that even if FSA will be processing the pending servicing application, it may need to request updated financial information from you.

If you have any questions, please contact our office at *(telephone number)*.

Sincerely,

Farm Loan Manager

Borrower Action

I want to begin the loan servicing process again and I understand that my pending application will be withdrawn. Please close any current application for servicing and send me a new notification of the availability of loan servicing. If I have an appeal pending with the National Appeals Division (NAD), I will notify NAD immediately to withdraw my appeal.

Note: I understand that if I submit a new loan servicing application and FSA denies it, I will have the opportunity to request a new appeal.

Borrower’s signature and date: _____