

For: State and County Offices

Servicing FLP Accounts Referred for Cross-Servicing

Approved by: Administrator



1 Overview

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Background

KCMO St. Louis is scheduled to refer charged-off FLP accounts to the U. S. Department of Treasury for cross-servicing by late October. Referral to cross-servicing gives Treasury and their designated private collection agencies (PCAs) the authority to act on FSA's behalf.

FSA will no longer provide normal servicing for the accounts referred for cross-servicing.

Once referred, Treasury will send a demand letter to the borrower. Treasury will service the debt for 30 days. If the debt is not settled within 30 days, Treasury will refer the debt to one of twelve PCAs who will service the debt. If the first PCA is unsuccessful after 6 months, Treasury forwards the debt to a second PCA for debt collection. If the second PCA is unsuccessful after 6 months, Treasury will refer the debt to FSA with a recommendation for writeoff or to refer the debt to the Department of Justice (DOJ) for further action.

Treasury has informed FSA that accounts on which the 6- and 10-year statutes of limitations have run should still be referred for cross-servicing. However, they are **not** eligible for the Treasury Offset Program (TOP) if the 10-year statute of limitations has run.

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Disposal Date November 1, 2000	Distribution State Offices; State Offices relay to County Offices
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1 Overview (Continued)

B

Purpose

This notice:

- informs Field Offices that accounts on which the statutes of limitations have run should still be referred for cross-servicing
 - informs Field Offices of actions to be taken with regard to charged-off accounts
 - provides direction for servicing FLP accounts which have been referred for cross-servicing.
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Contact

If there are any questions about:

- FLP procedures:
 - County Offices shall contact the State Office
 - State Office shall contact Bruce Mair, LSPMD
 - cross-servicing processes, contact Program Reporting Branch (PRB) at 314-539-2494.
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2 Accounts Selected for the October Cross-Servicing Referral

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October Cross-Servicing Referral

The accounts that will be referred to Treasury for cross-servicing in late October were classified as charge-offs at the time they were selected. They were selected based on the transaction code 3K with a class of writeoff code "5".

A report was compiled and distributed to State Offices in July 1999, containing all of these selected charge-offs for review. State Offices were instructed to determine the charge-offs' eligibility based on the statute of limitations, pending civil rights claims, pending debt settlements, and the existence of liable entities. Loans that were determined ineligible and removed from the cross-servicing report because of the statute of limitations will not be referred in October.

If an account contains loans that were not selected because of the statute of limitations, the entire account will not be referred for cross-servicing at this time. It will be subsequently referred.

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3 Cancellation of Debt Based On the Statute of Limitations

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Statute of Limitations

Treasury has informed FSA that accounts on which the 6- and 10-year statutes of limitations have run should still be referred for cross-servicing. Therefore, the statutes of limitations **will not** be the basis for canceling debt according to RD Instruction 1956-B, section 1956.70.

4 Debts Currently Not Collectable - 3K(Charge Offs)

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Requirements

Since accounts treated as “currently not collectable” (CNC) (**charge offs**) are being referred for cross-servicing, the State Office will maintain the original or copy of the case folder and promissory note. The following requirements must be met before approving referral of nonjudgment accounts.

- Borrowers must have been sent RD Instruction 1955-A, Exhibit F, at least 30 days before approval.
- Accounts with pending debt settlement applications will not be referred until after borrowers are notified of the approval official’s decision and all appeal rights are exhausted.

Note: The provisions of 25-AS, State and County Office Records Operations, subparagraphs 86 E, 86 F, 86 G, 86 H, and paragraphs 88, 89, and 90 **do not** apply to these accounts. Promissory notes must be retained on all accounts charged off. The folders of charged off accounts shall be labeled “CNC charge off”. Maintain charged off borrower case folders separate from active and closed borrower case folders. If no promissory note exists for a loan, notify KCMO St. Louis PRB by following instructions in subparagraph 5 C.

Accounts should be canceled, rather than termed CNC (charge off) if, because of death or bankruptcy, and closing of the estate and discharge in bankruptcy, there are no remaining obligors to the indebtedness.

Note: If the borrower identified as the principal borrower in Finance Office records no longer exists or has been discharged of the debt through bankruptcy, the account identification and number should be changed to an existing obligor who has not been discharged of the debt.

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5 Servicing Accounts Referred for Cross-Servicing

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Cross-Servicing Report

The first cross-servicing referral of CNC (charge-off) accounts will contain only those borrowers verified as conforming to Treasury's cross-servicing requirements. Additional referrals will be made at a later date.

KCMO St. Louis PRB will send a report of borrowers referred for cross-servicing to each applicable State Office.

B

Collection Activity

Treasury regulations require that FSA stop all collection activity, with the exception of referral for TOP and internal administrative offset, on debts transferred for cross-servicing.

In the event a CNC (charge-off) borrower takes or mails a payment to the local servicing office, call the State Office to verify if the borrower remains at Treasury for cross-servicing. The State Office shall call PRB for cross-servicing verification. If yes, write the borrowers name, case number, and loan number (if specified by the borrower) on the check. Address the payment to Treasury as follows:

U. S. Department of Treasury
FMS - Debt Management Service
P.O. Box 105576
Atlanta, GA 30348.

The check can be processed at Treasury even though the check is made payable to the Agency.

Borrowers referred for cross-servicing will continue to have FmHA 1951-9, Annual Statement of Loan Account, and IRS Form 1098, Mortgage Interest Statement, generated at calendar yearend if the account had activity. Local servicing offices shall forward the annual statement to the borrower and a copy to the State Office.

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5 Servicing Accounts Referred for Cross-Servicing (Continuing)

C

Removing Borrowers From Cross-Servicing

Treasury requirements mandate that a borrower can only be removed from cross-servicing for a valid reason, such as death or bankruptcy. The recall process must be initiated by KCMO St. Louis PRB after notification by the State Office. State Offices will complete FmHA 1951-43, Adjustment of Account Referred For IRS Offset. Notate in the remarks section the reason for removal, contact name, and phone number. FAX the completed FmHA 1951-43 to KCMO St Louis PRB at 314-539-6266.

Do not delete CNC (charge-off) on the TOP offset screens for any reason. Use FmHA 1951-43.

D

Bankruptcy

KCMO St Louis PRB should immediately be notified by FAX on 314-539-6266 when a borrower, whose account has been referred for cross-servicing, has filed bankruptcy. KCMO St. Louis PRB should be sent and FAXed a copy of the bankruptcy filing. KCMO St. Louis PRB will notify Treasury to stop collection activities and initiate debt recall procedures. The account will be serviced by the State Office and FLM according to RD Instruction 1962-A, section 1962.47.

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Borrowers Inquiries

Borrowers who submit or inquire about debt settlement applications after their debts have been referred for cross-servicing should be told that their debts are now at Treasury, and that their negotiations need to be with Treasury. Borrowers will not be provided appeal rights for settlements rejected by Treasury and returned to FSA.

Borrowers should be directed to contact Treasury at 1-888-826-3127.

F

Treasury Inquiries

Documentation about borrowers submitted to Treasury for cross-servicing may be requested by Treasury or the PCA's on the Debt Management Services Action Form (DMS Action Form). If requested, KCMO St. Louis will provide the information it has available. Requests for more detailed information will be FAXed to the State Offices. Treasury has mandated a 15-day response time on the DMS Action Form.

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5 Servicing Accounts Referred for Cross-Servicing (Continued)

G

Account Resolution

Treasury has all authority to negotiate and debt settle accounts referred for cross-servicing. When necessary, Treasury will obtain U.S. Department of Justice approval on settlement of accounts which have received previous debt forgiveness or deficiency judgments.

Offices shall take action regarding debt settlements received from Treasury according to the following table.

Office	Action
KCMO St. Louis	receive DMS Action Form returning debt to FSA with recommendation for cancellation
	contact State Office to determine if the account had previous debt forgiveness or was a deficiency judgment
	sign the action form, return action form with approval of debt settlement, or recommendation for DOJ referral if deficiency judgment or prior debt forgiveness
	process all settlements approved by Treasury
	notify State Offices, by memorandum, when debt has been settled under cross-servicing.
State Offices	provide KCMO St. Louis with information about debt settlement eligibility and any prior year debt forgiveness or deficiency judgments
	attach the KCMO St. Louis notice of debt cancellation on top of the State Office copy of FmHA 1956-1 which was used to approve the charge off
	forward a copy of the KCMO St. Louis notice of debt cancellation to FLM.
FLM	attach the KCMO St. Louis notice of debt cancellation on top of the County Office copy of FmHA 1956-1 which was used to approve the "charge off"
	comply with 25-AS, subparagraphs 86 E, 86 F, 86 G, 86 H and paragraphs 88, 89, and 90. Promissory notes will be placed in the case file. However, if the debtor requests the notes, they may be stamped, "Satisfied by Approved Cancellation", and returned.