

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Debt
Collection and Resolution
7-FLP**

Amendment 12

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

The following subparagraphs and exhibits have been amended to update DCIB to DMB, FaSB to FLB, and NFAOC to RDBCSO:

- 104 B, C, and E
- 106 B
- 107 D
- 133 B
- 135 C
- 223 D
- 222 A
- 223 B, C, and D
- 224 A
- 226 A and B
- 241 D
- 242 A
- 245 D
- 247 B
- 353 A
- 404 C
- 408 B and D
- 409 E
- Exhibits 1, 8, and 20.

Note: These references will be updated in future releases of other FLP handbooks.

Subparagraph 247 B has been amended to change 3-FI to 64-FI.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 408 F has been amended to update the requirements for requesting exception authority for debt settlement.

Part 13, Borrower Repayment of Direct Loan Losses, and paragraph 441 have been added.

Exhibit 8 has been amended to correct spelling of non-compliance.

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104 TOP Screens and Process**A Co-Borrower Selection and Changes**

Co-borrower information for TOP is selected from the DLS Customer Profile. In DLS, co-borrowers are considered related entities. To link, view, update, and unlink related entities through the loan making process, follow the procedure in the DLS User's Guide, Part 4. To view, create, and update related entity information through the loan servicing process, follow the procedure in the DLS User's Guide, Section 8.3.5.

The guide may be found on the FLP Software User Guides web page located at <https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index>.

B TOP Weekly Update

All loans on the Borrowers Eligible for TOP Offset Certified Screen will be available for *--review and manual deletion on an ongoing weekly basis. DMB and State Offices have delete capability; County Offices and FLB have view capability. State Offices are responsible for processing all deletes. The monthly RC 540 and its parts will be used to programmatically update or delete certified borrower/co-borrower loan information at TOP each weekend. The screens will be taken down by 2:30 p.m. CST on Fridays and made available on Tuesdays.--*

Send FSA-2723 to the State Office to request "TOP delete only".

--Send FSA-2722 to RDBCSO through the State Office and check Box 4B for TOP delete-- when also requesting a recall from cross-servicing, TOP refund, cross-servicing refund, and/or reporting a change/update to information previously submitted on FSA-2721.

The State Office will delete the applicable loans from TOP before sending FSA-2722 to *--RDBCSO.--*

C Debtors Displayed on Borrowers Eligible for TOP Offset Screens

The monthly RC 540 and its parts will be used on an ongoing basis to select and update delinquent loans eligible for offset. The TOP Selection process is usually run the last 2 weeks of the quarter. The screens will be made available to State and County Offices according to the timeframe in Exhibit 17.

104 TOP Screens and Process (Continued)

C Debtors Displayed on Borrowers Eligible for TOP Offset Screens (Continued)

The screens will be displayed with all delinquent loans for:

- borrowers/co-borrowers who are not at TOP and fall into 1 or more of the following categories:
 - 90 calendar days past due
 - at least \$25 delinquent
 - **not** flagged “BAP”
 - **not** a boll weevil loan
 - **not** flagged “SAA”

Notes: Loans listed will include Apple loans, Bureau of Reclamation loans, and debts classified CNC.

Borrowers on full-time active duty in the Armed Forces are not eligible for TOP. See 4-FLP, Part 11 for guidance on servicing borrowers on full-time active duty.

- debtors/co-debtors who have:
 - employee defalcations
 - judgments **not** currently certified
 - delinquent equity receivables or loan suspensions
 - delinquent leases
 - TPJ’s, both borrower and third parties, if they are in SCIMS and linked as related entities in the DLS Customer Profile
 - filed bankruptcy, but have not been flagged “BAP”.

***--Note:** An automatic stay only affects debtors who are named in the bankruptcy filing.

Example: In Chapter 12 cases, 11 U.S.C 1201 provides that co-debtors are protected from collection efforts such as offset. However, this co-debtor stay only applies to “consumer debts.” FSA debt is not consumer debt because it is made for business/farming purposes. Co-debtors who are not named in the bankruptcy filing should not be removed from offset.--*

To prevent selection for TOP when a borrower/co-borrower is no longer eligible for TOP, such as individual bankruptcy, release from liability, deceased, etc., users must:

- delete the loan on TOP screens with the appropriate code
- unlink the co-borrower as a related entity in the DLS Customer Profile.

104 TOP Screens and Process (Continued)**C Debtors Displayed on Borrowers Eligible for TOP Offset Screens (Continued)**

If a co-borrower later becomes eligible for TOP, such as when a bankruptcy is dismissed, remove or change the “BAP” flag, and/or link the co-borrower as a related entity, as appropriate.

Loans will be selected each quarter, even if manually deleted in a prior quarter, if the loan continues to appear delinquent on ADPS and no circumstance would generate a programmatic delete. Specific examples are ineligible judgment loans, SAA loans, loans involved in bankruptcy with no “BAP” or “SAA” flag on the account, and loans related to a *--settlement agreement or a problem case being worked by RDBCSO where ADPS--* transactions have not been processed. See Exhibits 18 and 19 for descriptions of programmatic delete codes and the manual delete codes available for State Office use.

To accommodate TOP selection for TPJ loans, the third party’s name, address, and TIN must be entered in SCIMS. Ensure that the third party is not already in SCIMS before attempting to add them. The third party must also be linked as a related entity in the DLS Customer Profile. Select “co-borrower” as the type of related entity. The TOP selection process will bring in all loans. The loans for the primary borrower and any original co-borrowers should be deleted, if appropriate. This will leave only the third party’s debt in TOP.

Borrowers who have requested loan servicing or debt settlement are eligible for offset until the loans have been brought current through payment or restructure, or a settlement or repayment plan has been approved by FSA.

Salary offset collections for delinquent debtors are being handled by Treasury through the TOP offset process. These payments will be biweekly and have a “T” application code.

D State Tax Refunds and State Vendor Payments Included in TOP Centralized Offset

DCIA contains a provision that allows the State to enter into reciprocal agreements with Treasury to collect unpaid State debt by offset of Federal nontax payments and the Federal Government to collect delinquent nontax debt by offset of State payments.

The 60-day TOP Due Process Notification Letter (Exhibit 7) was modified to include State payments.

104 TOP Screens and Process (Continued)

E TOP Refunds

--FAX FSA-2722 to DMB at the ECM FAX number in 1-FLP, subparagraph 5 D, only if a-- refund is needed, or the loan needs to be recalled from cross-servicing.

Note: FSA-2722 is only to be used for TOP and cross-servicing refunds and cross-servicing recalls. If FSA-2722 is used for an internal administrative offset or regular payment refund request, processing of the refund may be delayed.

--Refunds must be made to the specific person who was offset. DMB will determine-- whether the refund will be manual or programmatic. The refund will be programmatic if the person receiving the refund is in ADPS and no other name will be on the check. Full refunds will include the TOP fee amount. Partial refunds will not include the TOP fee amount.

The following information must be provided on FSA-2722, item 16B, if a check must be sent to other than the County Offices:

- name of the person or persons to whom the check should be made payable
- address where the check should be mailed

Note: Manual refunds may be sent directly to the borrower's/co-borrower's address; however, this is discouraged because the County Office then has no confirmation the refund was received. It is critical to specify where the check must be sent.

- effective date the borrower/co-borrower was no longer eligible for offset (the date of bankruptcy filing, date paid current, repayment agreement date, etc.) and which person was involved.

Note: To ensure timely and accurate processing of refund requests, all FSA-2722 refund *--requests must be FAXed to DMB only, not to FLB. DMB monitors and tracks all--* refunds.

104 TOP Screens and Process (Continued)**E TOP Refunds (Continued)**

When completing FSA-2722 for a borrower/co-borrower who has a monthly offset occurring or the amount of the offset is unknown and the offset needs to be refunded, enter the following:

- in item 13, the amount of the offset in ADPS Online History, which is the amount of the offset taken by Treasury minus any TOP and/or salary offset fees
- in item 16B, the date specified should be the date the loan was no longer eligible for offset, such as the bankruptcy filing date, date SED signed the settlement agreement, etc.

Note: It is not necessary to wait to FAX FSA-2722 until the offset appears on ADPS.

--However, FSA-2722's will be held by DMB until the payment arrives and is-- applied to the loan. This usually takes 2 to 3 weeks from the date of offset.

105 County Office Responsibilities**A Screening**

On an ongoing basis, County Offices will be provided view-only access to the TOP Offset Online Screens. Since County Offices do not have the authority to delete loans on the TOP Offset Online Screens, County Offices must:

- review the Borrowers Eligible for TOP Offset Screens and determine whether each debtor shown is eligible to receive a 60-day TOP Due Process Notification Letter, or is being referred to TOP for offset

Note: It is critical that borrowers/co-borrowers on this screen are reviewed for TOP due process notification eligibility.

- review the Borrowers Eligible for TOP Offset Certified Screens on an ongoing basis to determine whether any loans need to be removed from TOP

106 State Office Responsibilities (Continued)**B Screening (Continued)**

Judgment loans must be carefully reviewed before determining TOP eligibility. DOJ is responsible for referring debts to TOP when DOJ has jurisdiction. In some cases, DOJ may request that FSA refer debts on DOJ's behalf. Do **not** refer a judgment under DOJ jurisdiction **without** contacting LSPMD at 202-720-1984. If the loan needs to be deleted, use delete code "05".

"CAP" and "FAP" flagged loans are included on the TOP Offset Online Screens. The presence of 1 of these flags on the account is not a determining factor for whether a debtor should be deleted. Review the debtor file to determine eligibility as follows:

- "CAP" flagged accounts should be deleted with code "03" only if the debt is being handled by OGC
- "FAP" flagged accounts should be deleted with code "01" only if offset could jeopardize litigation under State law.

CNC loans must be carefully reviewed before determining TOP eligibility.

--If any nonjudgment loan becomes ineligible, input the proper delete code and notify DMB-- immediately by FAXing FSA-2722 to the ECM FAX number in 1-FLP, subparagraph 5 D.

C Accessing Debtor/Co-Debtor Accounts

State Offices:

- will have online capability to delete loans serviced by their County Offices
- may access the TOP Offset Online Screens as described in Exhibit 20.

106 State Office Responsibilities (Continued)

D Deleting Debtors/Co-Debtors

After accessing debtors through the Borrowers Selection Menu, options “1”, “2”, “3”, or “4”, delete a loan and any cost item related to the loan according to the following table, if ineligible for offset.

Step	Action
1	<p>On the Borrowers Selection Menu, for options:</p> <ul style="list-style-type: none"> “1” and “2”, input all delete codes needed for all borrower/co-borrower loans displayed on the page before pressing “Enter” <p>Note: Borrowers and co-borrowers are not necessarily eligible for deletion for the same reason or at the same time.</p> <ul style="list-style-type: none"> “3” and “4”, input the applicable delete code from Exhibit 19 in the “DLT CDE” field on the line for the loan number to be deleted. <p>Note: If all of a borrower’s/co-borrower’s loans are to be deleted, input a delete code for each loan.</p>
2	<p>PRESS “Enter”.</p> <p>Note: Users must PRESS “Enter” for each page, if a delete code has been entered. If users PRESS “PF8” or “PF7” without pressing “Enter” first, the delete code will not be processed.</p> <p>Once users PRESS “Enter”, “Borrower(s) Processed” will be displayed on the bottom-left of the screen. The current date will be displayed in the “Delete Date” column in the center of the screen. To verify the delete codes have processed, ENTER “5” to return to the Subsystem Selection Menu, and PRESS “Enter” again. The delete codes will be displayed in the loan line under the “Delete Code” column, on the left.</p>
3	<p>Continue this process for all pages displayed for the requested State or County Office or for the requested debtor.</p>

***--107 Handling Debtor Responses to Exhibit 7**

A Inspect and Copy Records

See subparagraph 63 D.

B ARA

ARA's will be considered according to Exhibit 8.

C Debt Settlement

See Part 12.

D Review

Do **not** use Exhibit 13 for this review. Debtors were provided an opportunity for review according to Exhibit 13 and NAD appeal, when they received FSA-2701 and/or FSA 2702.

FSA is required to include in Exhibit 7, a statutory 60-day timeframe to request review before referring debts to TOP.

The review, in response to Exhibit 7, is a review of "the validity of the delinquent debt amount".--*

107 Handling Debtor Responses to Exhibit 7 (Continued)**D Review (Continued)**

SED designee shall:

- review the information and documentation submitted by the debtor
- determine if the information submitted by the debtor indicates that the outstanding balance or amount delinquent needs to be corrected in FSA's records/automated financial system, and/or if the debt is otherwise currently not eligible for TOP
- provide a written response to the borrower.

If the account needs to be corrected, and/or if the debt is otherwise not eligible for TOP, State Office shall:

- ~~*--~~provide the necessary information to FLB (see 1-FLP, subparagraph 5 B for contact~~--*~~ information) to correct the account
- delete the debtor from the TOP screens according to subparagraph 106 D.

Note: After an account balance is corrected, the debt may still be delinquent. If necessary, the State Office should consult with OGC to determine if new Internal Administrative Offset notices (Part 3), and/or PLS (5-FLP) need to be sent.

108-130 (Reserved)

133 TOP Referral and Matching Process

A Debts in TOP

[7 CFR 3.72(c)] Mandatory centralized administrative offset. Debts may be referred to Treasury under §3.44 (Part 4) for collection through salary offset in accordance with 31 CFR 285.7.

[5 CFR 550.1108] Under 31 U.S.C. 3716, creditor agencies must notify the Secretary of the Treasury of all debts that are delinquent as defined in the FCCS (over 180 days) so that recovery may be made by centralized administrative offset. This includes those debts the agency seeks to recover from the pay account of an employee of another agency via salary offset. The Secretary of the Treasury and other Federal disbursing officials will match payments, including Federal salary payments, against these debts. Where a match occurs, and all the requirements for offset have been met, the payments will be offset to collect the debt. Prior to offset of the pay account of an employee, an agency must comply with the requirements of 5 U.S.C. 5514, this subpart, and agency regulations issued thereunder. Specific procedures for notifying the Secretary of the Treasury of a debt for purposes of collection by centralized administrative offset are contained in 31 CFR part 285 and the FCCS.

In most cases delinquent debt must be in TOP (Part 4) before FSA can receive Federal salary offset collections.

B Notification From Treasury

When Treasury matches a Federal salary to a delinquent FLP debt that is at TOP:

- *--Treasury notifies RDBCSO
- RDBCSO notifies the applicable State Office
- State Office ensures that Federal salary offset due process is given to the debtor (paragraph 134), within 15 calendar days of receiving notification from RDBCSO.--*

--134 Determination and Notification*A Determination**

[7 CFR 3.73] (a) In determining that an employee is indebted to USDA and that 31 CFR parts 900 through 904 have been satisfied and that salary offset is appropriate, USDA will review the debt to make sure that it is valid and past due.

(b) If USDA determines that any of the requirements of paragraph (a) of this section have not been met, no determination of indebtedness will be made and salary offset will not proceed until USDA is assured that the requirements have been met.

If an FLP debt is eligible for administrative offset (Part 3), it is also eligible to receive notification of salary offset, when applicable.

B Notification

[7 CFR 3.74] Notice requirements before offset. Except as provided in paragraph (b) of this section, salary offset will not be made unless USDA first provides the employee with a minimum of 30 days written notice. This Notice of Intent to Offset Salary will state:

(a) That USDA has reviewed the records relating to the debt and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(b) USDA's intention to collect the debt by means of deduction from the employee's current disposable pay until the debt and all accumulated interest are paid in full;

(c) The approximate beginning date, frequency, and amount of the intended deduction (stated as a fixed dollar amount or as a percentage of pay, not to exceed 15 percent of disposable pay), and the intention to continue the deductions until the debt is paid in full or otherwise resolved;

(d) An explanation of USDA requirements concerning interest, penalties and administrative costs; unless such payments are waived in accordance with 31 U.S.C. 3717 and § 3.17;

(e) The employee's right to inspect and copy USDA records relating to the debt;

(f) The employee's right to enter into a written agreement with USDA for a repayment schedule differing from that proposed by USDA, so long as the terms of the repayment schedule proposed by the employee are agreeable to USDA;

(g) The employee's right to a hearing conducted by a hearing official on USDA's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period, so long as a petition is filed by the employee as prescribed by USDA;

(h) That the timely filing of a petition for hearing will stay the collection proceedings;

(i) That a final decision on the hearing will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing, unless the employee requests, and the hearing officer grants, a delay in the proceedings;--*

135 Debtor Response (Continued)

C Requests Hearing

[7 CFR 3.75] (a) Except as provided in paragraph (c) of this section, an employee must file a petition to request a hearing that is received by USDA not later than 30 days from the date of the USDA notice described in § 3.74, (paragraph 134) if an employee wants a hearing concerning:

- (1) The existence or amount of the debt; or**
- (2) USDA's proposed salary offset schedule (including percentage).**

(b) The petition must be signed by the employee and must identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position. If the employee objects to the percentage of disposable pay to be deducted from each check, the petition must state the objection and the reasons for it.

(c) If the employee files a petition for a hearing later than the 30 days as described in paragraph (a) of this section, the hearing officer may accept the request if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the filing deadline (unless the employee has actual notice of the filing deadline).

Hearing officers for Federal salary offset are being provided by Treasury.

--If a late hearing request is received, State Office will forward it to RDBCSO, and RDBCSO will forward it to Treasury.--

[7 CFR 3.76] Result if employee fails to meet deadlines. An employee will not be granted a hearing and will have his or her disposable pay offset as specified in USDA's offset schedule if the employee:

- (a) Fails to file a petition for a hearing as prescribed in § 3.75 (paragraph 134); or**
- (b) Is scheduled to appear and fails to appear at the hearing.**

30 calendar days after a debtor receives FSA-2710:

•*--State Office notifies RDBCSO that the debtor did **or did **not** return FSA-2711--*** requesting a hearing and provides the following:

- a memorandum or cover letter
- copies of due process letters
- copies of any mail receipts
- other documentation as needed

•*--RDBCSO notifies Treasury that due process has been provided and salary offset can--* begin **or** that the debtor has requested a hearing.

--136 Hearing and Decision*A Hearing**

[7 CFR 3.77] (a) If an employee timely files a petition for a hearing under § 3.75 (paragraph 134), USDA will select the time, date, and location for the hearing.

(b) A hearing will not be held and Federal salary offset will not be pursued if the cost of the hearing is greater than the delinquent debt.

(c)(1) Hearings will be conducted by the hearing official designated in accordance with 5 CFR 550.1107; and

(2) Rules of evidence will not be adhered to, but the hearing official will consider all evidence that he or she determines to be relevant to the debt that is the subject of the hearing and weigh it accordingly, given all of the facts and circumstances surrounding the debt.

(d) USDA will have the burden of going forward to prove the existence of the debt.

(e) The employee requesting the hearing will bear the ultimate burden of proof.

(f) The evidence presented by the employee must prove that no debt exists or cast sufficient doubt such that reasonable minds could differ as to the existence of the debt.

- Treasury provides for a hearing for Federal salary offset conducted through TOP.

Note: For non-Federal salary offset according to paragraph 131, see 22-PM.

- State Office ensures that an FSA representative is available to participate in a telephone hearing with Treasury or through any process in 22-PM--*.

Part 8 Cross-Servicing

--221 Mandatory Referral and Overview*A Mandatory Referral**

[7 CFR 3.31] (a) Agencies will transfer to Treasury any legally enforceable nontax debt in excess of \$25, or combination of debts less than \$25 that exceeds \$25 (in the case of a debtor whose taxpayer identification number (TIN) is unknown the applicable threshold is \$100), that has or have been delinquent for a period of 180 days in accordance with 31 CFR 285.12 so that Treasury may take appropriate action on behalf of the creditor agency to collect or compromise, or to suspend or terminate collection, of the debt, including use of debt collection centers and private collection contractors to collect the debt or terminate collection action...

(b) The requirement of paragraph (a) of this section does not apply to any debt that:

...

(8) Is FSA FLP debt in which case the delinquent loan servicing procedures and appeals process required by the ConAct will apply, including the deferral for cross-servicing until all security has been liquidated, and FSA concludes its review of any pending debt settlement application from the debtor.

FLP debt is not referred to cross-servicing based on the “over 180 calendar days delinquent” requirement. FLP debt is generally referred after all loan servicing has been completed and all security has been liquidated according to 5-FLP.

[7 CFR 3.31(c)] ... When a final agency determination is made after an administrative appeal or review process (including administrative review under subpart F of this part), the creditor agency must transfer such debt to Treasury, if more than 180 days delinquent, within 30 days after the date of the final decision.

Use this part and FSA- 2720 to ensure eligible unsecured debts are reviewed and referred to cross-servicing in a timely manner.--*

221 Mandatory Referral and Overview (Continued)**B Overview**

TOP, cross-servicing, and AWG must be considered when processing debt settlement offers under Part 12. If a greater recovery of taxpayer dollars is possible through referral to Treasury for cross-servicing and/or AWG, then the debt must be referred to Treasury.

As part of cross-servicing, Treasury, or its contracted PCA's, perform various collection actions, such as calling debtors, sending letters to debtors, skip tracing, and negotiating debt settlement offers. FLP debts must be referred to TOP before they are referred for cross-servicing and they must remain at TOP for cross-servicing actions to be taken. Therefore, while debts are at cross-servicing, they are also at TOP and subject to offsets. In addition, Treasury administers AWG through the cross-servicing program; therefore, separate referral to AWG is not required. See Part 9 for AWG information.

Note: Borrowers on full-time active duty in the Armed Forces will not be referred for cross-servicing. See 4-FLP, Part 11 for guidance in servicing borrowers on active duty.

222 Discrimination Complaints at Cross-Servicing**A Accepted Complaints**

See paragraph 25.

If a CNC debtor files a program discrimination complaint and the Office of Adjudication accepts the complaint as valid, immediately FAX FSA-2722 and supporting documentation

--to DMB at the ECM FAX number in 1-FLP subparagraph 5 D to recall the debt from-- cross-servicing.

223 Cross-Servicing Process

A TOP Screen Certification

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.

B Referring Debt to Cross-Servicing

If the debt is determined to be eligible for CNC according to Part 7, the State Office shall:

- process transaction code “3K” in ADPS with a class of write off code “5” for all debt types except leases, TPJ’s, and equity receivables
- *--refer debts to cross-servicing by completing and FAXing FSA-2721 to DMB to the ECM FAX number in 1-FLP subparagraph 5 D
- submit FSA-2721 to DMB by the 15th of each month to ensure that debts are included--* in the end of the month referral

Note: Borrowers and co-borrowers (including liable spouses) shall be listed on FSA-2721 with their TIN’s and must be referred at the same time. The debtor’s last known address will be provided on FSA-2721 if TIN cannot be identified. This 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 PCA’s to collect the debt. If Treasury does not receive FSA’s dispute response within 60 calendar days, the debt will be returned as uncollectible.

--The State Office will also receive notification from DMB when the following occur:--

- compromises are offered
- initial cross-servicing payments are received
- debts are returned from cross-servicing
- debt has been resubmitted per State Office request.

223 Cross-Servicing Process (Continued)**C Recalling Debts From Cross-Servicing**

When, because of such things as bankruptcy protection, debts no longer meet CNC requirements, the State Office will recall debts from cross-servicing by completing and *--FAXing FSA-2722, with supporting documentation, to DMB at the ECM FAX number--* in 1-FLP, subparagraph 5 D.

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

D Debt Recalled From Cross-Servicing

When a debt has been recalled from cross-servicing because it currently does **not** meet the CNC certification requirements on FSA-2720, such as when the borrower files for bankruptcy protection, the authorized agency official will:

- ensure that transaction code 3K, class of write off code 5, is reversed
- review the debt for possible debt cancellation, if appropriate

Example: After consultation with the Regional OGC, the determination may be made that the debt is not eligible for CNC in a community property State where 1 obligor received a Chapter 7 bankruptcy discharge and another co-obligor did not. However, the still liable co-obligor would like to debt settle the loans.

- complete debt cancellation according to Part 12, or continue monitoring the debt, as applicable.

223 Cross-Servicing Process (Continued)**D Debt Recalled From Cross-Servicing (Continued)**

If the debt was recalled from cross-servicing because the borrower filed bankruptcy, which has now been dismissed, it is possible that the debt did not complete the 2-year cross-servicing process.

- If the authorized agency official determines that the account should be canceled, the cancellation will be completed according to Part 12.
- If the authorized agency official determines the account should be resubmitted, and the *--State Office concurs, the State Office will complete and submit FSA-2721 to DMB by--* the FAX number provided in 1-FLP, subparagraph 5 D and note that the case was previously recalled because of the borrower filing bankruptcy; however, the bankruptcy has been dismissed.

*--**Note:** For Treasury to accept the account, DMB will place an “X” at the end of the--* case number. This only applies to cases under this scenario. Because of the limited character space available, only the primary borrower and case number can be resubmitted.

If additional assistance is needed in resubmitting the account to Treasury, the State Office *--will contact DMB as shown in 1-FLP, subparagraph 5 D.--*

Notes: See restrictions in 1-FLP, subparagraph 41 K, for resubmitting an account to cross servicing after a discrimination complaint.

For all cases that need to be resubmitted, please write “resubmitted” at the top of the FSA-2721.

E Debt Returned From Cross-Servicing

Debts returned from cross-servicing shall be resolved according to Part 12.

224 FSA Collection Activity

A Debts Referred to Cross-Servicing

Treasury regulations require that FSA stop all collection activity on debts referred for cross-servicing, including AWG, 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 CNC borrowers, the:

- County Office shall call the State Office
- State Office shall check the borrower's current cross-servicing status on CSNG/Artiva (paragraph 225).

***--Note:** If needed, call DMB at the telephone number in 1-FLP, subparagraph 5 D for--* assistance.

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

- *--prepare a memorandum to DMB stating the following:--*
 - that the 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 DMB at the address in 1-FLP, subparagraph 5 D.--*

Borrowers referred to 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.

225 CSNG/Artiva**A CSNG/Artiva and Cross-Servicing**

Treasury manages the cross-servicing program through CSNG/Artiva. FSA State Offices shall access CSNG/Artiva to check on the status of FSA cases referred to Treasury.

B Requesting Access

To request access to CSNG/Artiva, contact the Treasury Agency Liaison at
*--**CS.Liaison@Fiscal.Treasury.gov** for the most recent versions of forms for completion.--*
The program code for FSA Farm Loan Programs is 2KC01MOMKC1A.

* * *

C URL

The URL to access CSNG/Artiva periodically changes.

Effective June 7, 2018, the URL is

<https://xservice.fiscal.treasury.gov/csp/prod/os.artiva.web.page.main.cls>.

Clicking on the hyperlink, or using the web browser to access the URL will direct users to the webpage to enter their “user ID” and password.

Notes: The webpage may look slightly different each time Treasury changes the URL.

Users must use the Chrome web browser.

D IT Issues

Treasury’s IT desk for help with CSNG/Artiva can be contacted by links in the system, or by calling 304-480-7777.

226 Debt Settlement Offers

A From Borrower

CNC debt may be settled by FSA upon application by the borrower according to Part 12, **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 CSNG/Artiva to determine whether the account has been referred for cross-servicing. See paragraph 225 for access.

IF the account has...	THEN inform the borrower that...
been referred for cross-servicing and at least 1 loan is still at cross-servicing	the debt is now at Treasury and negotiations need to be with Treasury. Borrowers: <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.
either of the following: <ul style="list-style-type: none"> • not been referred for cross-servicing (and this referral is not required) • all of the borrower's/co-borrower's loans have been returned from cross-servicing 	a debt settlement offer may be considered. See Part 12 for processing debt settlements.

Note: If a debt settlement offer is received after the State Office has submitted the debt for cross-servicing referral on FSA-2721, but the debt has not yet been referred, the State Office should notify DMB immediately by FAX at the ECM FAX number in 1-FLP, subparagraph 5 D. 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 DMB--* immediately when a decision is made. If the offer is rejected, and all appeal rights exhausted, the debt will be sent to Treasury for cross-servicing in the next referral.

226 Debt Settlement Offers (Continued)

A From Borrower (Continued)

Treasury will notify FSA and request concurrence for some repayment agreements and compromises. This notification 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's may approve the settlement agreements on a loan-by-loan basis.

***--[7 CFR 3.30(c)] In cases where a debtor has more than one FSA FLP loan that has been referred to cross-servicing and Treasury accepts an agreement to compromise or adjust one loan, or several loans, but not all of the debt, cancellation of any loan balances remaining on the compromised or adjusted debt will not be processed for the debtor until:**

- (1) All payments have been received as agreed; and**
- (2) All loans referred to the cross-servicing program for that debtor have been returned to FSA, with or without payment agreements.**

Cancellation will also **not** be processed until all co-borrower issues are resolved, including recall and returns.--*

226 Debt Settlement Offers (Continued)**B From Treasury**

If a repayment agreement, adjustment offer, or compromise offer has been negotiated by Treasury, State Offices shall:

- *--receive Treasury's DMS action form or concurrence request from DMB 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 DMB--*
- 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 may be canceled.

SED shall:

- 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 DMB at the ECM FAX number in 1-FLP, subparagraph 5 D.--*

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 Part 12.

227-240 (Reserved)

--241 Overview and Authority (Continued)*C Process (Continued)**

- Treasury requests FLP's assistance in evaluating a debt settlement offer or ARA

Note: See subparagraph 244 C for guidance.

- borrowers request a hearing.

Note: See subparagraph 245 A for guidance.

The overall process when a borrower requests an AWG hearing is as follows:

- Treasury will notify OCFO that a hearing was requested
- OCFO will notify LSPMD that a hearing was requested
- Treasury will notify LSPMD and the borrower of the hearing date, etc.
- LSPMD will:
 - notify the State Office servicing the account that a hearing was requested
 - request any documentation or information needed for the hearing
- the State Office will provide the documentation or information to LSPMD
- LSPMD and the applicable FLC will coordinate who will represent FLP at the hearing--*
- Treasury's hearing official will make a decision and notify all parties.

241 Overview and Authority (Continued)**D Debt Settlement Offers**

While FLP debt is referred to Treasury for AWG and/or cross-servicing, borrowers must submit any debt settlement offer to Treasury and/or Treasury's PCA servicing the debt. If needed, Treasury and/or PCA will forward the debt settlement request to FSA for review
--through RDBCSO or OCFO.--

Accounts eligible for AWG and/or cross-servicing are classified CNC (3K class of write off code 5). If a CNC borrower submits or inquires about a debt settlement application, see Part 8.

E Other Collection Actions Authorized

Local agency officials will continue to use all applicable collection tools, including centralized administrative offset through TOP (Part 4) and internal administrative offset (Part 3).

242 Required Agency Notification**A Initial Notifications**

[7 CFR 3.53(b)] As specified in § 3.11, (Part 2) agencies must notify debtors of their intent to pursue garnishment of their disposable pay through referral of the debt to Treasury for issuance of an administrative wage garnishment order and provide debtors with the opportunity for review of the existence of the debt under subpart F of this part within 60 days of the date of the demand letter.

FLP satisfies these requirements, including FSA's intent to collect through AWG, in the
--60-day due process letter that is sent by RDBCSO before referring FLP debt to Treasury-- for TOP. See Exhibit 7 for an example of this due process letter.

A paragraph in the 60-day due process letter advises FLP borrowers that after liquidation of loan security, any remaining loan balance may be referred to Treasury for collection through PCA's (generally referred to as "cross-servicing") and AWG.

245 AWG Hearing According to 31 CFR 285.11(f)**A Hearing Request**

The debtor has a statutory right to a hearing with respect to the existence and amount of the debt claimed or the terms of the proposed repayment schedule under the garnishment order (hardship).

The hearings are generally conducted by teleconference, and the hearing official establishes the date and time.

B Timely Requests

Treasury will:

- make the decisions for FLP because borrowers submit the requests directly to Treasury
- determine whether AWG will begin before a hearing in cases where hearing requests are **not** timely.

C Hearing Official

Treasury, Bureau of the Fiscal Service will provide hearing official services for AWG hearing requests.

D Hearing Procedure

Treasury's hearing official will send the hearing information to the borrower, OCFO, and LSPMD.

The pre-hearing Order sent to LSPMD establishes the hearing date and the date that the following must be submitted to the hearing official and borrower:

- narrative about the existence, computation of amount, and documentation of FLP debt
- any information about the borrower's ability to repay all or part of the debt through AWG
- copies of the proposed hearing exhibits
- list of the proposed hearing exhibits
- list of the proposed hearing witnesses.

245 AWG Hearing According to 31 CFR 285.11(f) (Continued)

D Hearing Procedure (Continued)

LSPMD, or its designee, shall:

- *--request documentation from the applicable State Office, RDBCSO, and OGC as--* needed
- review all relevant documentation about the case
- prepare the hearing exhibits, list of hearing exhibits, and list of hearing witnesses
- send copies of hearing documents to the hearing officer and borrower
- participate in the teleconference hearing
- respond to any follow-up questions from the hearing official in a timely manner.

FLC, or designee, shall prepare:

- a narrative including the following:
 - the existence, computation of amount, and documentation of FLP debt
 - any information the State or local FSA office may have about the borrower's ability to repay all or part of the debt through AWG
 - a statement confirming that all security that was pledged for the loans was liquidated and the proceeds were applied to the account
- copies of the promissory notes
- printout of each loan showing principal, interest, and daily interest accrual as of the date printed, with a notation showing which items are administrative expense/recoverable cost items
- any documentation, such as a debt settlement application, financial statements, etc., FSA may possess about the borrower's ability to repay all or part of the debt through the garnishment process
- name, address, e-mail, telephone number, and FAX number of the contact person for the case.

Ensure that documentation is assembled and e-mailed, in a manner that protects PII, to the LSPMD loan officer assigned the case.

Note: The e-mail subject should read "AWG Hearing – (Borrower's Name and State)".

In cases where LSPMD requests that an FLP employee familiar with the servicing of the case be available to participate in the AWG teleconference, FLC shall designate which FLP employee from the State shall participate.

245 **AWG Hearing According to 31 CFR 285.11(f) (Continued)****D Hearing Procedure (Continued)**

Any requests for additional information or documentation from Treasury, OCFO, or the hearing official must be responded to immediately to ensure timely processing.

If a borrower's circumstances change so that AWG would not be appropriate at any time before the AWG hearing is held, or during the time period between hearing and receiving the hearing official's decision, the State Office must notify LSPMD, and see Parts 3, 4, and 8 to determine whether the debt must also be removed from cross-servicing TOP and/or internal administrative offset.

Examples: If the borrower files for bankruptcy protection, the debt is no longer eligible for cross-servicing, AWG, or TOP.

If the borrower provides a notice of employment termination that he or she received, the borrower must also submit the letter to Treasury and/or PCA
--servicing the account. The State Office will access CSNG/Artiva, and review any CSNG/Artiva documentation and servicing notes, to determine whether-- the letter was accepted by Treasury as notification that the borrower is no longer employed, and will notify LSPMD accordingly. LSPMD will notify OCFO and Treasury's hearing official, if a hearing is no longer necessary, etc. In cases of employment termination, AWG would not be appropriate. However, internal administrative offset, and continued referral to cross-servicing and TOP may be appropriate based on the criteria in Parts 3, 4, and 8.

If AWG hearings are canceled, LSPMD will notify the State Office accordingly.

E Burden of Proof and Hearing Record

[31 CFR 285.11(f)(8)] (i) The agency will have the burden of going forward to prove the existence or amount of the debt.

(ii) Thereafter, if the debtor disputes the existence or amount of the debt, the debtor must present by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. In addition, the debtor may present evidence that the terms of the repayment schedule are unlawful, would cause a financial hardship to the debtor, or that collection of the debt may not be pursued due to operation of law.

F AWG Decision

The hearing official sends the AWG decision to the borrower, OCFO, and LSPMD. LSPMD will notify the applicable State Office.

The issuance of proposed garnishment orders by Treasury shall not be subject to appeal to NAD under 7 CFR Part 11. Hearings will be conducted according to 31 CFR 285.11(f).

246 Garnishment**A Withholding Order**

Treasury sends the withholding order to the employer on behalf of FLP.

B Employer Certification

Treasury sends the certification to the employer on FLP's behalf. The employer returns the completed form to Treasury.

247 Processing Garnishment Amounts and Collections**A Employer Processing**

The employer submits withheld amounts to Treasury. Treasury sends the funds to FSA in automated reports.

B FLP Processing

AWG collections will be included with all other collections received from Treasury through cross-servicing and/or TOP. Monies collected are applied to borrowers' loans according to *--64-FI and 4-FLP, Part 5.--*

When Treasury reviews an account, they are reviewed by individual loans, not by the total debt owed by the borrower. As such, once an individual loan is paid in full, Treasury ceases AWG collections and returns the account to FSA. Even in instances where the borrower has more than 1 loan covered by AWG, the subsequent loans will be returned because Treasury has ceased collections. Therefore, when a borrower has more than 1 loan that should be paid *--from AWG, the State Office will contact DMB for assistance in resubmitting any additional loans to Treasury to resume collection through AWG. See 1-FLP, subparagraph 5 D for DMB contact information.

DMB must notify Direct Loan FLB to reverse the CNC classification code (3K class of write-off code 5) to apply AWG or cross-servicing collections. After applying collections, Direct Loan FLB must re-establish the CNC classification code, as appropriate.--*

353 Servicing Judgment Debts Returned by DOJ

A Servicing Accounts Returned by DOJ

Service accounts returned by DOJ according to the following table.

IF the judgment lien has...	THEN...
<p>not expired</p>	<ul style="list-style-type: none"> • pursue internal administrative offset according to Part 3 if collection of Farm Program payments is possible • refer the account to Treasury for TOP offset according to Part 4, cross-servicing according to Part 8, and AWG according to Part 9, as appropriate. State Offices shall: <ul style="list-style-type: none"> • complete FSA-2720 and classify the account as CNC by processing transaction code “3K” with a class of writeoff code “5”, except for employee defalcations and TPJ’s •*--submit FSA-2721 to DMB by FAX at the--* ECM FAX number in 1-FLP, subparagraph 5 D. <p>Notes: In cases where an acceptable debt settlement offer is received from the debtor before referral to cross-servicing, the State Office may process it according to Parts 8 and 12.</p> <p>Referral of the debt to cross-servicing is required unless any of the exceptions under 31 CFR 285.12 applies or if the borrower is no longer eligible for cross-servicing. The exceptions are included in FSA-2720.</p>
<p>expired (20 years from the date of judgment, unless renewed)</p> <p>Note: If the U.S. Attorney states the judgment expired after 10 years, then consult the Regional Attorney to determine whether the judgment can be revived.</p>	<p>cancel the debt according to Part 12.</p> <p>Note: If continuing to offset after the judgment lien has expired, get confirmation from the Regional Attorney that continuing to offset is allowed. Also consider if partial cancellation would be appropriate in these instances.</p>

354 Debt Settlement of Judgment Debts

* * *

A Documentation

Insert any of the following that apply in FSA-2731 and/or FSA-2732:

- U.S. Attorney's file is closed
- judgment has expired 20 years after the judgment date, and the judgment is not renewed

Note: If the U.S. Attorney states that the judgment expired after 10 years, consult the regional OGC to determine whether the judgment can be revived.

- debt was returned from cross-servicing as uncollectible
- debtor is unable to pay any part of the debt and has no reasonable prospect of being able to pay any part of the debt
- debt cannot be collected through Federal salary offset and/or AWG.

B Releasing Judgment Lien by DOJ

The State Office shall notify the U.S. Attorney's office that it has canceled debt subject to a judgment lien. The notice should request that this judgment lien be released.

355-400 (Reserved)

404 Cancellation without Borrower/Debtor Signature (FSA-2731) (Continued)

C CNC Debt Returned From Cross-Servicing

Debt classified as CNC and returned from cross-servicing after Treasury has taken all appropriate collection actions shall be canceled.

Step	Office	Action
1	State Office	<p>Cancellation</p> <p>The account balance shall be canceled when:</p> <ul style="list-style-type: none"> • all of the loans eligible for referral to the cross-servicing program have been referred but returned for the debtor and any co-debtors • all payments have been received from any compromise or adjustment offers negotiated by Treasury. <p>There are no collections that FSA could receive through AWG or Federal salary offset.</p> <p>Note: Accounts on AWG or Federal salary offset returned in error by Treasury will be returned by the State Office *--for continued collection through DMB.--*</p> <p>Canceling a debtor's account balance will be completed under the authorities set forth in this part and 7 CFR 761.403(b) as appropriate. Treasury's return of an account from cross-servicing as uncollectable will serve as documentation that the requirements of section 7 CFR 761.403(b) have been met. Neither a credit report nor further contact with the borrower is needed. If 1 or more of a debtor's loans have been canceled using the debt cancellation authority under FCCS, the remaining account balance may be canceled under this part. If a debtor has received debt forgiveness under CONACT authorities, such as a write-down through PLS, the remaining account balance may be canceled according to Exhibit 34.</p>

404 Cancellation without Borrower/Debtor Signature (FSA-2731) (Continued)

C CNC Debt Returned From Cross-Servicing (Continued)

Step	Office	Action
1 (Cntd)	State Office (Cntd)	<p>Cancellation</p> <p>SED's shall:</p> <ul style="list-style-type: none"> process the loan cancellation as appropriate using FSA-2731 <p>Note: Documentation that all debt has been returned from cross-servicing as uncollectable will be attached to FSA-2731.</p> <ul style="list-style-type: none"> *--prepare a memorandum advising DMB of the cancellation FAX the signed memorandum to DMB.--* <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 FSA-2731 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, as the Administrator's designee, signed FSA-2731.

404 Cancellation without Borrower/Debtor Signature (FSA-2731) (Continued)

C CNC Debt Returned From Cross-Servicing (Continued)

Step	Office	Action
2	State Office	Repayment/Adjustment Offers and Compromise Offers
		*--Will receive notification from DMB once the full amount of the repayment/adjustment or compromise has been collected and applied to the debt.
		Approved Cancellations
		<ul style="list-style-type: none"> Will provide DMB a copy of FSA-2731 authorizing the cancellation in instances where cancellations cannot be processed by the State Office. This will enable DMB to forward FSA-2731 to FLB to process the cancellation. Will receive a memorandum from DMB once the cancellation has been completed.
3	State Office	<p>Attach RDBCSO memorandums, State Office memorandums, and any applicable forms to the State Office copy of FSA-2720 or previous form.</p> <p>Forward a copy of the DMB memorandum and any applicable forms to FLM.</p>
4	County Office	<p>File RDBCSO memorandums, State Office memorandums,--* and any applicable forms in the case file.</p> <p>After all payments have been processed, stamp the promissory notes "Satisfied by Completed Adjustment Offer", "Satisfied by Approved Compromise", or "Satisfied by Approved Cancellation", as applicable, and return the satisfied notes to the borrower.</p> <p>Continue monitoring the account in cases where the debt is returned as uncollectible but is not or cannot be canceled at that time. Once a determination is made to cancel, or it becomes eligible for cancellation, proceed to process the cancellation according to this part and Exhibit 34, as applicable.</p>

405 Debt Settlement Requested by Borrower/Debtor (FSA-2732)**A Information Needed**

[7 CFR 761.405(a)] A borrower requesting debt settlement must submit complete and accurate information from which the Agency can make a full determination of the borrower's financial circumstances and repayment ability. Except for the situations listed in § 761.404(b), each liable party, must submit the following:

(1) One completed original debt settlement application on the applicable Agency form signed by all parties liable for the debt;

(2) A current financial statement;

(3) A cash flow projection for the next production or earnings period;

(4) Verification of employment or other earned income, including verification of a nondebtor spouse's income which will be included as available to pay family living expenses;

(5) Verification of assets including, but not limited to, cash, checking accounts, savings accounts, certificates of deposit, individual retirement accounts, retirement and pension funds, mutual funds, stocks, bonds, and accounts receivable;

***--(6) Verification of debts exceeding an amount determined by the Agency;**

Debts will be verified and documentation included in the case file according to 3-FLP, subparagraph 42 A.--*

(7) Copies of complete Federal income tax returns for the previous 3 years; and

(8) Any other items requested by the Agency to evaluate the debtor's financial condition.

408 Approval and Rejection (Continued)**B Approval Processing and Notification**

The approval official will execute completed FSA-2731 or FSA-2732 and FSA-2737, whichever is applicable, and will process the forms according to each of the form's *--instructions. If a "Compromise", "Adjustment", or "Bankruptcy" is involved, FLB must process FSA-2731 or FSA-2732. The State Office will process Chapter 7 bankruptcy cases when there is no remaining security.

The adjustment or reorganization bankruptcy amount is created by FLB into a new loan number with a 1M transaction. FLB will also flag the account SAA.--*

For adjustments:

- The effective date of the 1M will be the earlier of the date of approval as indicted on FSA-2732, or the payment date if a payment was submitted with the offer.
- Interest will accrue based on the Promissory Note interest rate from which the adjustment account was created.
- Payments will be established based on the approved adjustment agreement and as stated on FSA-2732.

For reorganization bankruptcies interest will accrue and payments will be established as directed by the court order.

For all compromise and adjustment offers:

- the specific amount and terms of the offer will be stated on the FSA-2732
- the accounts settled will be identified by reference to the accounts shown on FSA-2732.

When using FSA-2732, the approval official will send FSA-2737. If approved, the FSA-2732 will provide the estimated amount that will be reported to IRS according to 26 U.S.C. 6050P; and 26 CFR 1.6050 P-1. However, adjustment offers will not be reported until after the final payment is applied.

Once the debt settlement is approved, the servicing official will ensure that the account is removed from internal administrative offset, TOP, and cross-servicing, as applicable.

408 Approval and Rejection (Continued)**C Requesting Additional Information**

If rejection appears to be necessary because of a lack of information, or because the amount offered is inadequate, SED may request that the employee in charge of the account obtain additional information or make an effort to obtain an acceptable offer, as appropriate under the circumstances. Rejection of an offer will be withheld in these cases for a maximum of 30 days to allow the debtor to submit information or a new offer. However, according to paragraph 405 B, submission of a debt settlement offer after the timeframes listed in paragraph 408 A will not prevent, suspend, or delay collection activities required by DCIA or the CONACT. All settlement offers will be handled according to the timeframes in paragraphs 406 and 408 A.

D Rejection Processing and Notification

The authorized official in subparagraph A will insert the reasons for rejection on FSA-2737 and sign and date FSA-2732 and FSA-2737.

The servicing official will:

- retain the original FSA-2732 and a copy of FSA-2737
- return case files and copies of FSA-2732 and FSA-2737 to the employee in charge of the account
- *--request FLB to return any adjustment or compromise payment held by RDBCSO to--* the borrower, in care of the employee in charge of the account
- return any adjustment or compromise payment held by the State Office to the borrower, in care of the employee in charge of the account:
 - send FSA-2737 to the debtor
 - provide appeal rights according to 1-APP using FSA-2737.

E Unauthorized Approval

If unauthorized approval of a debt settlement is identified, the settlement application with supporting documentation should be forwarded to the correct approval official provided in subparagraph A for post approval. If the debt settlement cannot be post-approved, the correct approval official will provide additional guidance on servicing the account.

408 Approval and Rejection (Continued)

F Requesting Exception Authority for Debt Settlement

[7 CFR 761.408] Administrator authority. On an individual case basis, the Agency may consider granting an exception to any requirement of this part if:

- (a) The exception is not inconsistent with the authorizing statute or other applicable law; and**
- (b) The Agency's financial interest would be adversely affected by acting in accordance with this part and granting an exception would resolve or eliminate the adverse effect upon its financial interest.**

SED must submit an exception request by e-mail to DAFLP at **SM.FSA.DCWa2.AdmException** or **adminexception@wdc.usda.gov**. The e-mail subject should read “Administrator’s Exception to (7-FLP, paragraph (include paragraph number)) – (Borrower’s Name and State)”. An attachment must fully describe the status of the account, including the following:

- a brief background on the case
- total outstanding FSA indebtedness, loan types, and amounts
- current status of the account

Note: If the account is delinquent, where is it in PLS?

- type of security (chattel or real estate) and value
- prior liens
- proposed plan of action that warrants the exception request
- what procedure is to be waived
- the adverse effect to FSA resulting from compliance with the regulation and how it would be eliminated or minimized through the exception
- how the action is in the best financial interest of the Government
- additional information SED thinks is needed to review the case
- *--a Farm Business Plan credit action pertaining to the requested exception, including but not limited to:
 - appropriate environmental review, if needed
 - credit presentation demonstrating all other feasibility, eligibility, and security requirements are met for the request; documentation should also be included regarding asset search (Exhibit 35).--*

409 Payments and Servicing - Approved FSA-2732**A Payments**

Debtors must submit compromise and lump sum payments within 45 days calendar of being notified that their debt settlement offer was approved.

Once the borrower complies and makes all payments as agreed under the approved adjustment offer, all remaining loan balances, if any, will be canceled with a 3K, CWC, 2 transaction.

B Failure to Pay

***--[7 CFR 761.407] (a) Failure to pay any compromise amount approved by FSA by the date agreed will result in cancellation of the compromise agreement.**

(b) Failure to pay debt adjustment amounts approved by FSA by the dates agreed will result in cancellation of the adjustment agreement.

(c) A debtor who has entered into an agreement under this subpart (Part 12) may request that FSA extend a repayment date for 90 days. The debtor must provide information that supports the basis for the request at the time the request is made.

(d) If a debtor is delinquent under the terms of an adjustment agreement and FSA determines the debtor is likely to be financially unable to meet the terms of the agreement, the existing agreement may be cancelled and the debtor may be allowed to apply for a different type of settlement more consistent with the debtor's repayment ability.

(e) If an agreement is cancelled, any payments received will be retained as payments on the debt owed.

Failure to pay any compromise or adjustment amount approved by the Agency by the date(s) agreed will result in cancellation of the agreement with appeal rights under 1-APP.

SED's may delegate to FLC, FLS, DD, FLM, and/or SFLO authority to cancel delinquent adjustment agreements--*

409 Payments and Servicing - Approved FSA-2732 (Continued)

* * *

C Promissory Notes

The notes will be returned to the debtor or to the debtor's legal representative when:

- cancellation is processed using FSA-2732
- all payments have been made as agreed in compromise and adjustment cases.

The original and copies of notes will be stamped “Satisfied by Approved Compromise,” “Satisfied by Approved Cancellation,” or “Satisfied by Completed Adjustment Offer.” Security instrument(s) will be released of record according to State law.

When FSA-2731 is used, the notes will be placed in the debtor's case file. However, if the debtor requests the notes, they may be stamped “Satisfied By Approved Cancellation” and returned.

In case of a transfer of security with assumption for less than the debt, the promissory note will be attached to the assumption agreement covered by the note and kept in the transferee's file.

D Restrictive Notations

Checks or check transmittal letter containing restrictive notations such as “Settlement in full” or “Payment in full,” or in those exceptional instances when the debtor refuses to sign the FSA-2732 in connection with a compromise offer, will be forwarded to the State Office where they will be retained until approval or rejection of the offer. The use of restrictive notations will be discouraged to the fullest extent possible.

409 Payments and Servicing - Approved FSA-2732 (Continued)***--E RDBCSO and Finance Office Handling**

All payments received with an FSA-2732 will be held in the Deposits Fund Account by the RD Business Center Finance Office until notification is received from the State Office of--* the approval or rejection of the offer.

In cases of approved offers, remittances will be applied in accordance with established policies, beginning with the oldest loan included in the settlement, except that when the *--request for settlement includes loans made from different revolving funds the RD Business Center Servicing Office will prorate the amount received, on the basis of the total principal balance due the respective revolving funds.

Upon notification of a rejection of a debtor's offer and receipt of a request from the State Director for a refund, the RD Business Center will refund to the debtor, in care of the--* employee in charge of the account, the amount held in the Deposits Fund Account representing a rejected compromise or adjustment offer.

[7 CFR 761.403(e)] If an FLP loan has been accelerated and all security has been liquidated, and the agency has approved an adjustment debt settlement offer in accordance with this subpart (7 CFR 761 subpart F), voluntary payments and involuntary payments (such as offsets) will be applied in the following order, as applicable:

- (1) Recoverable costs and protective advances plus interest;**
- (2) Loan principal;**
- (3) Deferred non-capitalized interest;**
- (4) Accrued deferred interest; and**
- (5) Interest accrual to date of payment.**

Note: The above application of payments for approved adjustments does not apply to the repayment agreements in subparagraph 23 D. The subparagraph 23 D agreements are processed using FSA-2732 as adjustments for the full amount of the debt. However, they are approved using the authority in 7 CFR 3.16, not 7 CFR 761 subpart F.

410-440 (Reserved)

Part 13 Borrower Repayment of Direct Loan Losses***--441 Borrower Repayment of Direct Loan Losses****A Borrower's Repayment Inquiry**

[7 CFR 764.101(d)(2)] When the applicant caused the Agency a loss by receiving debt forgiveness, the applicant may be ineligible for assistance in accordance with eligibility requirements for the specific loan type. If the debt forgiveness is cured by repayment of the Agency's loss, the Agency may still consider the debt forgiveness in determining the applicant's creditworthiness.

When a current or former borrower contacts the Agency inquiring about repaying a previous loss to the Agency, the Authorized Agency Official will provide the individual with the cancelled or settled amount shown in ADPS/DLS. The 3K transaction is available in the online history in ADPS.

Notes: When providing previous loss information, please add the following to any written communication:

“Please note that repayment of any previous loss will not obligate FSA to approve, fund, or close a loan application or servicing request. FSA must separately review the eligibility, feasibility, and security of any future application.”

When providing previous loss information to borrower or former borrower who are in bankruptcy or have been discharged of the debt, please add the following:

“If you are in bankruptcy or have been discharged of the debt, this informational notice is not intended as an act to collect or recover any debt from you or for which your personal obligation has been discharged.

B Processing Repayments

[7 CFR 765.151(b)] The Agency credits the borrower's account as of the date the Agency receives payment.

When FSA receives a payment to repay a loss to the Agency, the Authorized Agency Official must process the payment according to 64-FI. Additionally, a memo should be sent to FLB at the ECM FAX number in 1-FLP, subparagraph 5 B, requesting that any accrual of interest between the settlement date and date of receipt of payment be adjusted to zero.--*

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ARA	alternative repayment agreement	23, 63, 107, 134, 241, 244, Ex. 8, 13, 29
AWG	administrative wage garnishment	Text, Ex. 2, 7, 8, 29
BAP	bankruptcy action pending	104, Ex. 18, 19
CAP	court action pending	106
CNC	currently not collectible	Text
CONACT	Consolidated Farm and Rural Development Act	1, 21, 401, 402, 403, Ex. 34
CSNG	Cross-Servicing Next Generation	224, 225, 226, 245, 248
DMB	Debt Branch, RDBCSO	104, 106, 222, 223, 224, 226, 247, 353, 404
DMS	debt management service	224, 226
ECM	Enterprise Content Management	104, 106, 222, 223, 226, 353

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
FAP	foreclosure action pending	106, Ex. 19, 20
FLB	Farm Loan Branch, RDBCSO	104, 107, 247, 404, 408, 441
FCCS	Federal Claims Collection Standards	Text, Ex. 2, Ex. 8, Ex. 34
FmHA	Farmer's Home Administration	Ex. 20
FSAFS	FSA Financial Services software	61, 81
NFAOC	National Financial and Accounting Operations Center	Text, Ex. 8, Ex. 20
PCA	Private Collection Agency	221, 223, 224, 241-243, 245, 248, 407, Ex. 2, 29
PLS	Primary Loan Servicing	Text, Ex. 8
RDBCSO	Rural Development Business Center Servicing Office	104, 135, 241, 242, 245, 404, 408, 409, Ex. 8, 20
SAA	subject to approved adjustment Note: When reference is made to the financial "flag"/designation for an account where FSA has approved a borrower's debt settlement offer as documented on FSA-2732.	104, 401, 408, Ex. 18
SOL	statute of limitations	24
TPJ	third party judgment	104, 223, 353
YL	youth loan	Ex. 2

Redelegations of Authority

Redelegation	Reference
SED's may delegate to FLC, FLS, DD, FLM, and/or SFLO the authority to:	
<ul style="list-style-type: none"> reject debt settlement requests in cases where debtors do not provide all necessary documentation/information. 	408
Note: Appeal rights must be provided with the rejection letter.	
<ul style="list-style-type: none"> cancel delinquent adjustment agreements. 	409

Reviewing Alternative Repayment Agreements (ARA's) (Continued)**B Notification (Continued)**

After debts are referred to cross-servicing, borrowers must submit ARA request to Treasury or its collection agents for cross-servicing (Part 8) and AWG (Part 9) using any forms Treasury may require.

If Treasury requests FLP's input on an ARA for cross-servicing or AWG, the state office shall review the request, make a recommendation and respond to Treasury. If the request comes:

- *--through RDBCSO, the response should be sent back through RDBCSO so they are aware of any potential activity or automation needs concerning the account
- directly from Treasury, RDBCSO should be copied on the response--*
- from the debtor, confirm the status of the case using Treasury's CSNG/ARTIVA system. If the account is still at cross-servicing, inform the debtor that they need to submit the request to Treasury. If the account has been returned from cross-servicing, the State Office can *--consider the request. If it has not yet been sent to cross-servicing, notify RDBCSO to--* suspend sending the account to cross-servicing until state office has completed its review and advised the debtor of its decision.

Note: An ARA is not the same as a debt settlement offer. However, if an ARA is received in these cases, and the amounts the debtor is proposing to pay will not keep pace with interest accrual, it may be appropriate to remind the debtor that they can apply for debt settlement in an effort to negotiate resolution of the debt instead of the debt continuing to get larger despite the proposed payments.

C Reviewing and Processing ARA Requests

The authorized agency official will:

- review ARA requests (FSA-2707, FSA-2711, or other written format) and all information/documentation necessary to make a decision concerning the borrower's proposal
- request any additional documentation needed to show that the debtor can make the proposed payments on time

Example: If a debtor proposes to sell nonsecurity property and submit the proceeds to FSA to resolve the delinquent FLP debt, FSA may require a copy of the sales contract and/or loan closing documents.

Reviewing Alternative Repayment Agreements (ARA's) (Continued)**C Reviewing and Processing ARA Requests (Continued)**

- provide SED with sufficient documentation to make a decision concerning acceptance or rejection of the ARA request
- notify the debtor in writing of FSA's decision within 45 calendar days. A copy of the ARA with SED decision will be returned to the borrower
- ensure that a copy of ARA and any correspondence are maintained in the borrower's case file.

Note: If ARA request is approved, the letter will instruct the borrower to comply with the repayment plan.

Rejection of ARA requests is not appealable. However, debtors may pursue any remaining review or appeal rights concerning FSA's decision to pursue the various collection actions and should be reminded if there is any time remaining to appeal.

ARA requests accepted by FSA will be monitored and serviced according to subparagraph D.

D Monitoring and Servicing ARA's

The authorized agency official will monitor ARA's accepted by FSA to ensure that all payments are received on time as agreed. ARA should be monitored until the account is paid current or the *--agreement must be canceled because of non-compliance.--*

Note: ARA does not amend, replace, or supersede the promissory note.

If the agreement must be canceled, the authorized agency official will:

- consult with the State Office before sending additional collection notices to the debtor
- provide timely notification to the debtor
- determine where in the collection or review/appeal process FSA may continue
- continue with all applicable and appropriate collection actions.

TOP Offset Online Screens (Continued)

B Accessing Online Screens (Continued)

Option	Authorized Users	Step	Action
3	State and County Offices	1	In the “Enter Case Number” field, enter the entire 15-digit case number.
		2	In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed.
		3	PRESS “Enter”. All borrower/co-borrower loans on that screen for the State will be displayed.
4	State and County Offices	1	In the “Enter Tax ID” field, enter the 9-digit TIN for the primary borrower.
		2	In the “View Certified Borrowers” field, enter either of the following: <ul style="list-style-type: none"> • “Y”, if the Borrower Eligible for TOP Offset/Certified Screen is needed • “N”, if the Borrowers Eligible for TOP Offset Screen is needed.
		3	PRESS “Enter”. All borrower/co-borrower loans on that screen for the specified borrower TIN will be displayed. Note: Do not enter a co-borrower TIN because this will display a “Borrower Not Found” message. Entering borrower TIN will display any eligible co-borrowers.
5	State and County Offices		PRESS “Enter” to return to the Online Submenu Selection Menu.
6-12	*--RDBCSO--*		In the “Enter Option Code” field, enter applicable code to enable or disable the TOP screens, as needed.

