

## Federal Deposit Insurance Corporation

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contracting activities involving corporate operations, debts related to requests to the FDIC for documents under the Freedom of Information Act (FOIA), or where a request for an offset is received by the FDIC from another Federal agency;

(2) Criminal restitution debt owed to the FDIC in either its corporate capacity or its receivership capacity; and

(3) Civil money penalties arising out of the FDIC's activities in its supervision or enforcement capacities.

(4) With the exception of criminal restitution debt noted in paragraph (c)(2) of this section and civil money penalty debt noted in paragraph (c)(3) of this section, this part does not apply to debts owed to or payments made by the FDIC in connection with the FDIC's liquidation, supervision, enforcement, or insurance responsibilities, nor does it limit or affect the FDIC's authority with respect to debts or claims under 12 U.S.C. 1819(a) and 1820(a).

(d) Subparts B through G of this part do not apply to the collection of civil money penalty debt.

(e) Nothing in this part precludes the compromise, suspension, or termination of collection actions, where appropriate, under: Standards implementing the Debt Collection Improvement Act (DCIA) (31 U.S.C. 3711 *et seq.*); the Federal Claims Collection Standards (FCCS) (31 CFR chapter IX); or any other applicable law.

### § 313.2 Purpose.

(a) The purpose of this part is to implement Federal statutes and regulatory standards authorizing the FDIC to collect debts owed to the United States. This part is consistent with the following Federal statutes and regulations:

(1) DCIA at 31 U.S.C. 3711 (collection and compromise of claims); section 3716 (administrative offset), section 3717 (interest and penalty on claims), and section 3718 (contracts for collection services);

(2) 5 U.S.C. 5514 (salary offset);

(3) 5 U.S.C. 5584 (waiver of claims for overpayment);

(4) 31 CFR chapter IX (Federal Claims Collection Standards);

(5) 5 CFR part 550, subpart K (salary offset);

(6) 31 U.S.C. 3720D and 31 CFR 285.11 (administrative wage garnishment);

(7) 26 U.S.C. 6402(d), 31 U.S.C. 3720A, and 31 CFR 285.2 (tax refund offset); and

(8) 5 CFR 831.1801 through 1808 (U.S. Office of Personnel Management (OPM) offset).

(b) Collectively, the statutes and regulations in paragraph (a) of this section prescribe the manner in which Federal agencies should proceed to establish the existence and validity of debts owed to the Federal Government and describe the remedies available to agencies to offset valid debts.

### § 313.3 Definitions.

Except where the context clearly indicates otherwise or where the term is defined elsewhere in this subpart, the following definitions shall apply to this subpart.

(a) *Agency* means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of Government, including Government corporations.

(b) *Board* means the Board of Directors of the FDIC.

(c) *Centralized administrative offset* means the mandatory referral to the Secretary of the Treasury by a creditor agency of a past due debt which is more than 180 days delinquent, for the purpose of collection under the Treasury's centralized offset program.

(d) *Certification* means a written statement transmitted from a creditor agency to a paying agency for purposes of administrative or salary offset, to Treasury's Bureau of the Fiscal Service for offset or to the Secretary of the Treasury for centralized administrative offset. The certification confirms the existence and amount of the debt and verifies that required procedural protections have been afforded the debtor. Where the debtor requests a hearing on a claimed debt, the decision by a hearing official or administrative law judge constitutes a certification.

(e) *Chairman* means the Chairman of the FDIC.

(f) *Compromise* means the settlement or forgiveness of a debt under 31 U.S.C.

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3711 or 12 U.S.C. 1818(i)(2)(F) (for civil money penalties), in accordance with standards set forth in the FCCS and applicable Federal law.

(g) *Creditor agency* means an agency of the Federal Government to which the debt is owed, or a debt collection center when acting on behalf of a creditor agency to collect a debt.

(h) *Debt* means an amount owed to the United States from loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, restitution, fines and forfeitures, and all other similar sources. For purposes of this part, a debt owed to the FDIC constitutes a debt owed to the United States.

(i) *Debt collection center* means the Department of the Treasury or other Government agency or division designated by the Secretary of the Treasury with authority to collect debts on behalf of creditor agencies in accordance with 31 U.S.C. 3711(g).

(j) *Director* means the Director of the Division of Finance (DOF), the Director of the Division of Administration (DOA), the Director of the Division of Resolutions and Receiverships (DRR), the Director of the Division of Risk Management Supervision (RMS), the Director of the Division of Depositor and Consumer Protection (DCP), or the Director of the Division of Complex Institution Supervision and Resolution (CISR), as applicable, or the applicable Director's designee.

(k) *Disposable pay* means that part of current adjusted basic pay, special pay, incentive pay, retired pay, retainer pay, and, in the case of an employee not entitled to adjusted basic pay, other authorized pay, remaining for each pay period after the deduction of any amount required by law to be withheld. The FDIC shall allow the following deductions in determining the amount of disposable pay that is subject to salary offset:

(1) Federal employment taxes;

(2) Federal, state, or local income taxes to the extent authorized or required by law, but no greater than would be the case if the employee claimed all dependents to which he or

she is entitled and such additional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(3) Medicare deductions;

(4) Health insurance premiums;

(5) Normal retirement contributions, including employee contributions to the Thrift Savings Plan or the FDIC 401(k) Plan;

(6) Normal life insurance premiums (*e.g.*, Serviceman's Group Life Insurance and "Basic Life" Federal Employee's Group Life Insurance premiums), not including amounts deducted for supplementary coverage;

(7) Amounts mandatorily withheld for the United States Soldiers' and Airmen's Home; and

(8) Fines and forfeiture ordered by a court-martial or by a commanding officer.

(l) *Division of Administration* (DOA) means the Division of Administration of the FDIC, or any successor division of the FDIC.

(m) *Division of Complex Institution Supervision and Resolution* (CISR) means the Division of Complex Institution Supervision and Resolution of the FDIC, or any successor division of the FDIC.

(n) *Division of Depositor and Consumer Protection* (DCP) means the Division of Depositor and Consumer Protection of the FDIC, or any successor division of the FDIC.

(o) *Division of Finance* (DOF) means the Division of Finance of the FDIC, or any successor division of the FDIC.

(p) *Division of Resolutions and Receiverships* (DRR) means the Division of Resolutions and Receiverships of the FDIC, or any successor division of the FDIC.

(q) *Division of Risk Management Supervision* (RMS) means the Division of Risk Management Supervision of the FDIC, or any successor division of the FDIC.

(r) *Federal Claims Collection Standards* (FCCS) means standards published at 31 CFR chapter IX.

(s) *Garnishment* means the process of withholding amounts from the disposable pay of a person employed outside the Federal Government, and the paying of those amounts to a creditor in satisfaction of a withholding order.

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(t) *Hearing official* means an administrative law judge or other individual authorized to conduct a hearing and issue a final decision in response to a debtor's request for hearing. A hearing official may not be under the supervision or control of the Chairman or FDIC Board when the FDIC is the creditor agency.

(u) *Notice of Intent to Offset* or *Notice of Intent* means a written notice from a creditor agency to an employee, organization, entity, restitution debtor, or civil money penalty debtor that claims a debt and informs the debtor that the creditor agency intends to collect the debt by administrative offset. The notice also informs the debtor of certain procedural rights with respect to the claimed debt and offset.

(v) *Notice of Salary Offset* means a written notice from a paying agency to its employee informing the employee that salary offset to collect a debt due to the creditor agency will begin at the next officially established pay interval. The paying agency transmits this notice to its employee after receiving a certification from the creditor agency.

(w) *Paying agency* means the agency of the Federal Government that employs the individual who owes a debt to an agency of the Federal Government. The same agency may be both the creditor agency and the paying agency.

(x) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(y) *Waiver* means the cancellation, remission, forgiveness or non-recovery of a debt allegedly owed by an employee to an agency, as authorized or required by 5 U.S.C. 5584 or any other law.

(z) *Withholding order* means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body. For purposes of administrative wage garnishment, the terms "wage garnishment order" and "garnishment order" have the same meaning as "withholding order."

### § 313.4 Delegations of authority.

Authority to conduct the following activities is delegated as follows: Authority to collect debt, other than criminal restitution debt and civil money penalty debt, on behalf of the FDIC in its corporate capacity is delegated to the Director of DOA or Director of DOF, as applicable, or to the applicable Director's designee; and authority to collect criminal restitution debt on behalf of the FDIC in either its receivership or corporate capacity is delegated to the Director of DRR, or to her or his designee. These individuals, under the delegations in this section, may do the following:

(a) Initiate and carry out the debt collection process on behalf of the FDIC, in accordance with the FCCS;

(b) Accept or reject compromise offers and suspend or terminate collection actions to the full extent of the FDIC's legal authority under 12 U.S.C. 1819(a) and 1820(a), 31 U.S.C. 3711(a)(2), and any other applicable statute or regulation, provided, however, that no such claim shall be compromised or collection action terminated, except upon the concurrence of the FDIC General Counsel or his or her designee;

(c) Report to consumer reporting agencies certain data pertaining to delinquent debts, where appropriate;

(d) Use administrative offset procedures, including salary offset, to collect debts; and

(e) Take any other action necessary to promptly and effectively collect debts owed to the United States in accordance with the policies contained herein and as otherwise provided by law.

### §§ 313.5–313.19 [Reserved]

## Subpart B—Administrative Offset

### § 313.20 Applicability and scope.

The provisions of this subpart apply to the collection of debts owed to the United States arising from transactions with the FDIC. Administrative offset is authorized under the DCIA. This subpart is consistent with the FCCS on administrative offset issued by the Department of Justice.