

## § 312.10

shall be allocated to the Federal Deposit Insurance Corporation.

(f) The entrance fee required by this section shall be paid to the Savings Association Insurance Fund. The exit fee required by this section shall be paid to the Bank Insurance Fund.

(g) Insured deposit transfers occurring before March 21, 1990 shall not be subject to the assessment of entrance or exit fees.

[55 FR 10414, Mar. 21, 1990]

### § 312.10 Payment of entrance and exit fees.

(a) A resulting or acquiring depository institution shall be liable for the payment of the entrance and exit fees required by this part.

(b) Notwithstanding paragraph (a) of this section, an acquiring depository institution participating in an insured deposit transfer pursuant to § 312.8 or § 312.9 of this part shall pay the entrance and exit fees from the premium, and in any event, shall not be liable for the payment of that portion of the entrance and exit fees that exceeds the premium paid by such acquiring depository institution.

(c) The "conversion transaction payment date" shall be either March 31st or September 30th, whichever occurs first following the expiration of 30 days from the date the deposits are transferred.

(d) A resulting or acquiring depository institution shall pay the entrance and exit fees required by this part on the conversion transaction payment date.

(e) Notwithstanding paragraph (d) of this section, where the sum of the entrance and exit fees required to be paid by an insured depository institution pursuant to §§ 312.4, 312.5, 312.6, or 312.7 of this part exceeds \$5,000, a resulting or acquiring depository institution may, at its option, and upon notification to the Federal Deposit Insurance Corporation, pay the entrance and exit fees in equal annual installments, interest-free, over a period of not more than five years. The first such installment shall be paid on the date described in paragraph (c) of this section.

(f) Entrance and exit fees required to be paid by an insured depository institution as the result of an insured de-

## 12 CFR Ch. III (1-1-06 Edition)

posit transfer pursuant to §§ 312.8 or 312.9 of this part shall be paid on the conversion transaction payment date described in paragraph (c) of this section.

[55 FR 10414, Mar. 21, 1990]

## PART 313—PROCEDURES FOR CORPORATE DEBT COLLECTION

### Subpart A—Scope, Purpose, Definitions and Delegations of Authority

Sec.

- 313.1 Scope.
- 313.2 Purpose.
- 313.3 Definitions.
- 313.4 Delegations of authority.
- 313.5-313.19 [Reserved]

### Subpart B—Administrative Offset

- 313.20 Applicability and scope.
- 313.21 Definitions.
- 313.22 Collection.
- 313.23 Offset prior to completion of procedures.
- 313.24 Omission of procedures.
- 313.25 Debtor's rights.
- 313.26 Interest.
- 313.27 Refunds.
- 313.28 No requirement for duplicate notice.
- 313.29 Requests for offset to other federal agencies.
- 313.30 Requests for offset from other federal agencies.
- 313.31-313.39 [Reserved]

### Subpart C—Salary Offset

- 313.40 Scope.
- 313.41 Notice requirement where FDIC is creditor agency.
- 313.42 Procedures to request a hearing.
- 313.43 Failure to timely submit request for hearing.
- 313.44 Procedure for hearing.
- 313.45 Certification of debt by FDIC as creditor agency.
- 313.46 Notice of salary offset where FDIC is the paying agency.
- 313.47 Voluntary repayment agreements as alternative to salary offset where the FDIC is the creditor agency.
- 313.48 Special review of repayment agreement or salary offset due to changed circumstances.
- 313.49 Coordinating salary offset with other agencies.
- 313.50 Interest, penalties, and administrative costs.
- 313.51 Refunds.
- 313.52 Request from a creditor agency for services of a hearing official.
- 313.53 Non-waiver of rights by payments.

## Federal Deposit Insurance Corporation

## § 313.1

313.54 Exception to due process procedures.  
313.55 Salary adjustments.  
313.56–313.79 [Reserved]

### Subpart D—Administrative Wage Garnishment

313.80 Scope and purpose.  
313.81 Notice.  
313.82 Debtor's rights.  
313.83 Form of hearing.  
313.84 Effect of timely request.  
313.85 Failure to timely request a hearing.  
313.86 Hearing official.  
313.87 Procedure.  
313.88 Format of hearing.  
313.89 Date of decision.  
313.90 Content of decision.  
313.91 Finality of agency action.  
313.92 Failure to appear.  
313.93 Wage garnishment order.  
313.94 Certification by employer.  
313.95 Amounts withheld.  
313.96 Exclusions from garnishment.  
313.97 Financial hardship.  
313.98 Ending garnishment.  
313.99 Prohibited actions by employer.  
313.100 Refunds.  
313.101 Right of action.  
313.102–313.119 [Reserved]

### Subpart E—Tax Refund Offset

313.120 Scope.  
313.121 Definitions.  
313.122 Notification of debt to FMS.  
313.123 Certification and referral of debt.  
313.124 Pre-offset notice and consideration of evidence.  
313.125 Referral of past-due, legally enforceable debt.  
313.126 Correcting and updating referral.  
313.127 Disposition of amounts collected.  
313.128–313.139 [Reserved]

### Subpart F—Civil Service Retirement and Disability Fund Offset

313.140 Future benefits.  
313.141 Notification to OPM.  
313.142 Request for administrative offset.  
313.143 Cancellation of deduction.  
313.144–313.159 [Reserved]

### Subpart G—Mandatory Centralized Administrative Offset

313.160 Treasury notification.  
313.161 Certification of debt.  
313.162 Compliance with 31 CFR part 285.  
313.163 Notification of debts of 180 days or less.  
313.164–313.180 [Reserved]

AUTHORITY: 12 U.S.C. 1819(a); 5 U.S.C. 5514; Pub. L. 104–143, 110 Stat. 1321 (31 U.S.C. 3711, 3716).

SOURCE: 67 FR 48527, July 25, 2002, unless otherwise noted.

### Subpart A—Scope, Purpose, Definitions and Delegations of Authority

#### § 313.1 Scope.

This part establishes FDIC procedures for the collection of certain debts owed to the United States.

(a) This part applies to collections by the FDIC from:

(1) Federal employees who are indebted to the FDIC;

(2) Employees of the FDIC who are indebted to other agencies; and

(3) Other persons, organizations, or entities that are indebted to the FDIC, except those excluded in paragraph (b)(3) of this section.

(b) This part does not apply:

(1) To debts or claims arising under the Internal Revenue Code of 1986 (Title 26, U.S. Code), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States;

(2) To a situation to which the Contract Disputes Act (41 U.S.C. 601 *et seq.*) applies; or

(3) In any case where collection of a debt is explicitly provided for or prohibited by another statute.

(c) This part applies only to debts owed to and payments made by the FDIC acting in its corporate capacity; that is, in connection with employee matters such as travel-related claims and erroneous overpayments, 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. It 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 and/or claims pursuant to 12 U.S.C. 1819(a) and 1820(a).

(d) Nothing in this part 313 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.*),

### § 313.2

the Federal Claims Collection Standards (FCCS) (31 CFR chapter IX and parts 900 through 904); 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 and parts 900 through 904 (Federal Claims Collection Standards);

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

(6) 31 U.S.C. 3720D, 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, these statutes and regulations 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

### 12 CFR Ch. III (1-1-06 Edition)

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, 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 employee. 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. 3711, 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, 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) or the Director of the Division of Administration (DOA), as applicable, or the applicable Director's delegate.

(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