

**§ 313.48**

(2) If the Director decides that the proposed repayment agreement is acceptable or the debtor agrees to a modification proposed by the Director, the agreement shall be put in writing and signed by both the employee and the Director.

**§ 313.48 Special review of repayment agreement or salary offset due to changed circumstances.**

(a) An employee subject to a voluntary repayment agreement or salary offset payable to the FDIC as creditor agency may request a special review by the Director of the amount of the salary offset or voluntary repayment, based on materially changed circumstances, including, but not limited to, catastrophic illness, divorce, death, or disability. A request for special review may be made at any time.

(b) In support of a request for special review, the employee shall submit to the Director a detailed statement and supporting documents for the employee, his or her spouse, and dependents indicating:

- (1) Income from all sources;
- (2) Assets;
- (3) Liabilities;
- (4) Number of dependents;
- (5) Monthly expenses for food, housing, clothing, and transportation;
- (6) Medical expenses; and
- (7) Exceptional expenses, if any.

(c) The employee shall also file an alternative proposed offset or payment schedule and a statement, with supporting documents, showing why the current salary offset or payments result in extreme financial hardship to the employee.

(d) The Director shall evaluate the statement and supporting documents and determine whether the original salary offset or repayment schedule imposes extreme financial hardship on the employee, for example, by preventing the employee from meeting essential subsistence expenses such as food, housing, clothing, transportation, and medical care. The Director shall notify the employee in writing within 30 calendar days of his or her determination.

(e) If the special review results in a revised salary offset or repayment

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schedule, the Director shall provide a new certification to the paying agency.

**§ 313.49 Coordinating salary offset with other agencies.**

(a) *Responsibility of the FDIC as the creditor agency.* Upon completion of the procedures established in § 313.40 through § 313.45, the Director shall take the following actions:

(1) Submit a debt claim to the paying agency, containing the information described in paragraphs (a)(2) and (a)(3) of this section, together with the certification of debt or an installment agreement (or other instruction regarding the payment schedule, if applicable).

(2) If the collection must be made in installments, inform the paying agency of the amount or percentage of disposable pay to be collected in each installment. The Director may also inform the paying agency of the commencement date and number of installments to be paid, if a date other than the next officially established pay period is required.

(3) Unless the employee has consented to the salary offset in writing or has signed a statement acknowledging receipt of the required procedures and the written consent or statement is forwarded to the paying agency, the Director must also advise the paying agency of the actions the FDIC has taken under 5 U.S.C. 5514 and state the dates such action was taken.

(4) If the employee is in the process of separating from employment, the Director shall submit the debt claim to the employee's paying agency for collection by lump-sum deduction from the employee's final check. The paying agency shall certify the total amount of its collection and furnish a copy of the certification to the FDIC and to the employee.

(5) If the employee is already separated and all payments due from his or her former paying agency have been paid, the Director may, unless otherwise prohibited, request that money due and payable to the employee from the federal government, including payments from the Civil Service Retirement and Disability Fund (5 CFR 831.1801), be administratively offset to collect the debt.

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(6) In the event an employee transfers to another paying agency, the Director shall not repeat the procedures described in §313.40 through §313.45 in order to resume collecting the debt. Instead, the FDIC shall review the debt upon receiving the former paying agency's notice of the employee's transfer and shall ensure that collection is resumed by the new paying agency. The FDIC must submit a properly certified claim to the new paying agency before collection can be resumed.

(b) *Responsibility of the FDIC as the paying agency*—(1) *Complete claim.* When the FDIC receives a properly certified claim from a creditor agency, the employee shall be given written notice of the certification, the date salary offset will begin, and the amount of the periodic deductions. The FDIC shall schedule deductions to begin at the next officially established pay interval or as otherwise provided for in the certification.

(2) *Incomplete claim.* When the FDIC receives an incomplete certification of debt from a creditor agency, the FDIC shall return the debt claim with notice that procedures under 5 U.S.C. 5514 and 5 CFR 550.1104 must be followed and that a properly certified debt claim must be received before action will be taken to collect from the employee's current pay account.

(3) *Review.* The FDIC is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) *Employees who transfer from one paying agency to another agency.* If, after the creditor agency has submitted the debt claim to the FDIC, the employee transfers to a different paying agency before the debt is collected in full, the FDIC must certify the total amount collected on the debt. One copy of the certification shall be furnished to the employee, and one copy shall be sent to the creditor agency along with notice of the employee's transfer. If the FDIC is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including

the amount) and that the requirements set forth herein and in the OPM's regulation (5 CFR part 550, subpart K) have been fully met.

### § 313.50 Interest, penalties, and administrative costs.

Where the FDIC is the creditor agency, it shall assess interest, penalties, and administrative costs pursuant to 31 U.S.C. 3717 and 31 CFR parts 900 through 904.

### § 313.51 Refunds.

(a) Where the FDIC is the creditor agency, it shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when the debt is compromised or otherwise found not to be owing to the United States, or when an administrative or judicial order directs the FDIC to make a refund.

(b) Unless required by law or contract, such refunds shall not bear interest.

### § 313.52 Request from a creditor agency for services of a hearing official.

(a) The FDIC may provide a hearing official upon request of the creditor agency when the debtor is employed by the FDIC and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement.

(b) The FDIC may provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(c) The Director shall arrange for qualified personnel to serve as hearing officials.

(d) Services rendered under paragraph (a) of this section shall be provided on a fully reimbursable basis pursuant to 31 U.S.C. 1535.

### § 313.53 Non-waiver of rights by payments.

A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this section shall not be construed as a waiver of any rights that the debtor may have under any statute, regulation, or contract except as otherwise provided by law or contract.