

## Federal Retirement Thrift Investment Board

## § 1639.4

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AUTHORITY: 5 U.S.C. 8474; 31 U.S.C. 3711, 3716, 3720A.

SOURCE: 62 FR 49417, Sept. 22, 1997, unless otherwise noted.

### Subpart A—Administrative Collection, Compromise, Termination, and Referral of Claims

#### § 1639.1 Authority.

The regulations of this part are issued under 5 U.S.C. 8474 and 31 U.S.C. 3711, 3716, and 3720A, and in conformity with the Federal Claims Collection Standards, 4 CFR chapter II, prescribing standards for administrative collection, compromise, termination of agency collection action, and referral to the Department of Justice for litigation of civil claims by the Government for money or property, 4 CFR chapter II.

#### § 1639.2 Application of other regulations; scope.

All provisions of the Federal Claims Collection Standards, 4 CFR chapter II, apply to the regulations of this part. This part supplements 4 CFR chapter II by the prescription of procedures and directives necessary and appropriate for operations of the Federal Retirement Thrift Investment Board. The Federal Claims Collection Standards and this part do not apply to any claim as to which there is an indication of fraud or misrepresentation, as described in 4 CFR 101.3, unless returned by the Department of Justice to the Board for handling.

#### § 1639.3 Application to other statutes.

(a) The Executive Director may exercise his or her compromise authority for those debts not exceeding \$100,000, excluding interest, in conformity with the Federal Claims Collection Act of 1966, the Federal Claims Collection Standards issued thereunder, and this part, except where standards are established by other statutes or authorized regulations issued pursuant to them.

(b) The authority of the Executive Director of the Board to remit or mitigate a fine, penalty, or forfeiture will be exercised in accordance with the standards for remission or mitigation established in the governing statute. In the absence of such standards, the Federal Claims Collection Standards will be followed to the extent applicable.

#### § 1639.4 Definitions.

As used in this part:

*Administrative offset*, as defined in 31 U.S.C. 3701(a)(1), means withholding funds payable by the United States (including funds payable to the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a debt owed to the United States.

*Agency* means executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and Government corporations.

*Board* means the Federal Retirement Thrift Investment Board, which administers the Thrift Savings Plan and the Thrift Savings Fund.

*Certification* means a written debt claim form received from a creditor agency which requests the paying agency to offset the salary of an employee.

*Creditor agency* means an agency of the Federal Government to which the debt is owed.

*Debt* means money owed by an individual to the United States including a debt owed to the Thrift Savings Fund or to a Federal agency, but does not include a Thrift Savings Plan loan.

*Delinquent debt* means a debt that has not been paid within the time limit prescribed by the Board.

*Disposable pay* means that part of current basic pay, special pay, incentive pay, retirement pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld, excluding any garnishment under 5 CFR parts 581, 582. The Board will include the following deductions in determining disposable pay subject to salary offset:

(1) Federal Social Security and Medicare taxes;

(2) Federal, state, or local income taxes, but no more than would be the case if the employee claimed all dependents to which he or she is entitled and any additional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(3) Health insurance premiums;

(4) Normal retirement contributions as explained in 5 CFR 581.105(e);

(5) Normal life insurance premiums, excluding optional life insurance premiums; and

(6) Levies pursuant to the Internal Revenue Code, as defined in 5 U.S.C. 5514(d).

*Employee* means a current employee of an agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

*Executive Director* means the Executive Director of the Federal Retirement Thrift Investment Board, or his or her designee.

*Federal Claims Collection Standards* means the standards published at 4 CFR chapter II.

*Hearing official* means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed, and rendering a decision on the basis of the hearing.

*Net Assets Available for Thrift Savings Plan Benefits* means all funds owed to Thrift Savings Plan participants and beneficiaries.

*Notice of intent to offset* or *notice of intent* means a written notice from a creditor agency to an employee which alleges that the employee owes a debt

to the creditor agency and which apprises the employee of certain administrative rights.

*Notice of salary offset* means a written notice from the paying agency to an employee informing the employee that it has received a certification from a creditor agency and intends to begin salary offset.

*Participant* means any person with an account in the Thrift Savings Plan, or who would have an account but for an employing agency error.

*Paying agency* means the agency of the Federal Government which employs the individual who owes a debt to the United States. In some cases, the Federal Retirement Thrift Investment Board may be both the creditor agency and the paying agency.

*Payroll office* means the payroll office in the paying agency which is primarily responsible for the payroll records and the coordination of pay matters with the appropriate personnel office with respect to an employee.

*Person* includes a natural person or persons, profit or non-profit corporation, partnership, association, trust, estate, consortium, State and local governments, or other entity that is capable of owing a debt to the United States Government; however, agencies of the United States, are excluded.

*Private collection contractor* means a private debt collector under contract with an agency to collect a non-tax debt owed to the United States.

*Salary offset* means an 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.

*Tax refund offset* means the reduction of a tax refund by the amount of a past-due legally enforceable debt owed to the Board or a Federal agency.

*Thrift Savings Fund* means the Fund described in 5 U.S.C. 8437.

*Thrift Savings Plan* means the Federal Retirement Thrift Savings Plan established by the Federal Employees' Retirement System Act of 1986, codified in pertinent part at 5 U.S.C. 8431 *et seq.*

*Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by a person to

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the Board or a Federal agency as permitted or required by 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other law.

### § 1639.5 Use of credit reporting agencies.

(a) The Board may report delinquent debts to appropriate credit reporting agencies by providing the following information:

(1) A statement that the debt is valid and is overdue;

(2) The name, address, taxpayer identification number, and any other information necessary to establish the identity of the debtor;

(3) The amount, status, and history of the debt; and

(4) The program or pertinent activity under which the debt arose.

(b) Before disclosing debt information to a credit reporting agency, the Board will:

(1) Take reasonable action to locate the debtor if a current address is not available; and

(2) If a current address is available, notify the debtor by certified mail, return receipt requested:

(i) That a designated Board official has reviewed the claim and has determined that the claim is valid and overdue;

(ii) That within 60 days the Board intends to disclose to a credit reporting agency the information authorized for disclosure by this section; and

(iii) That the debtor can request an explanation of the claim, can dispute the information in the Board's records concerning the claim, and can file for an administrative review, waiver, or reconsideration of the claim, where applicable.

(c) At the time debt information is submitted to a credit reporting agency, the Board will provide a written statement to the reporting agency that all required actions have been taken. In addition, the Board will, thereafter, ensure that the credit reporting agency is promptly informed of any substantive change in the conditions or amount of the debt, and promptly verify or correct information relevant to the claim.

(d) If a debtor disputes the validity of the debt, the credit reporting agency will refer the matter to the appropriate

Board official. The credit reporting agency will exclude the debt from its reports until the Board certifies in writing that the debt is valid.

### § 1639.6 Contracting for collection services.

The Board will use the services of a private collection contractor where it determines that such use is in the best interest of the Board. When the Board determines that there is a need to contract for collection services, it will—

(a) Retain sole authority to:

(1) Resolve any dispute by the debtor regarding the validity of the debt;

(2) Compromise the debt;

(3) Suspend or terminate collection action;

(4) Refer the debt to the Department of Justice for litigation; and

(5) Take any other action under this part which does not result in full collection of the debt;

(b) Require the contractor to comply with the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m), with applicable Federal and State laws pertaining to debt collection practices (e.g., the Fair Debt Collection Practices Act (15 U.S.C. 1692 *et seq.*)), and with applicable regulations of the Board;

(c) Require the contractor to account accurately and fully for all amounts collected; and

(d) Require the contractor to provide to the Board, upon request, all data and reports contained in its files relating to its collection actions on a debt.

### § 1639.7 Initial notice to debtor.

(a) When the Executive Director determines that a debt is owed the Board, he will send a written notice to the debtor. The notice will inform the debtor of the following:

(1) The amount, nature, and basis of the debt;

(2) That payment is due immediately after receipt of the notice;

(3) That the debt is considered delinquent if it is not paid within 30 days of the date the notice is mailed or hand-delivered;

(4) That interest charges (except for State and local governments and Indian tribes), penalty charges, and