

**§ 1639.53**

measured from the time the request for inspection is granted or from the time the debtor receives a copy of the records.

(c) Pending the resolution of a dispute by the debtor, transactions in any of the debtor's account(s) maintained in the Board may be temporarily suspended to the extent of the debt that is owed. Depending on the type of transaction, the suspension could preclude its payment, removal, or transfer, as well as prevent the payment of interest or discount due on the transaction. Should the dispute be resolved in the debtor's favor, the suspension will be immediately lifted.

(d) During the review period, interest, penalties, and administrative costs authorized by law will continue to accrue.

(e) If the debtor does not exercise the right to request a review within the time specified in this section or if, as a result of the review, it is determined that the debt is due and no written agreement is executed, then administrative offset will be ordered in accordance with the regulations in this subpart without further notice.

**§ 1639.53 Written agreement for repayment.**

A debtor who admits liability but elects not to have the debt collected by administrative offset will be afforded an opportunity to negotiate a written agreement for repaying the debt. If the financial condition of the debtor does not support the ability to pay in one lump sum, the Board may consider reasonable installments. No installment arrangement will be considered unless the debtor submits a financial statement, executed under penalty of perjury, reflecting the debtor's assets, liabilities, income, and expenses. The financial statement must be submitted within 10 business days of the Board's request for the statement. At the Board's option, a confess-judgment note or bond of indemnity with surety may be required for installment agreements. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 31 U.S.C. 3711.

**5 CFR Ch. VI (1-1-02 Edition)**

**§ 1639.54 Requests for offset to Federal agencies.**

The Executive Director may request that funds due and payable to a debtor by another Federal agency be paid to the Board in payment of a debt owed to the Board by that debtor. In requesting administrative offset, the Board, as creditor, will certify in writing to the Federal agency holding funds of the debtor:

- (a) That the debtor owes the debt;
- (b) The amount and basis of the debt; and
- (c) That the Board has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations in this subpart, and the applicable provisions of 4 CFR part 102 with respect to providing the debtor with due process.

**§ 1639.55 Requests for offset from Federal agencies.**

Any Federal agency may request that funds due and payable to its debtor by the Board be administratively offset in order to collect a debt owed to that agency by the debtor, so long as the funds are not payable from net assets available for Thrift Savings Plan benefits. The Board will initiate the requested offset only:

- (a) Upon receipt of written certification from the creditor agency stating:
  - (1) That the debtor owes the debt;
  - (2) The amount and basis of the debt;
  - (3) That the agency has prescribed regulations for the exercise of administrative offset; and
  - (4) That the agency has complied with its own administrative offset regulations and with the applicable provisions of 4 CFR part 102, including providing any required hearing or review; and
- (b) Upon a determination by the Board that collection by offset against funds payable by the Board would be in the best interest of the United States as determined by the facts and circumstances of the particular case, and that such an offset would not otherwise be contrary to law.

**§ 1639.56 Expedited procedure.**

The Board may effect an administrative offset against a payment to be

made to the debtor before completion of the procedures required by §§ 1639.51 and 1639.52 if failure to take the offset would substantially jeopardize the Board's ability to collect the debt and the time before the payment is to be made does not reasonably permit the completion of those procedures. An expedited offset will be promptly followed by the completion of those procedures. Amounts recovered by offset, but later found not to be owed to the Board, will be promptly refunded.

### PART 1640—PERIODIC PARTICIPANT STATEMENTS

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AUTHORITY: 5 U.S.C. 8439 (c)(1) and (c)(2), 5 U.S.C. 8474 (b)(5) and (c)(1).

SOURCE: 52 FR 20371, June 1, 1987, unless otherwise noted.

#### § 1640.1 Definitions.

As used in this Subpart:

*Board* means the Federal Retirement Thrift Investment Board, established pursuant to 5 U.S.C. 8472;

*C Fund* means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C);

*Executive Director* means the Executive Director of the Board described in 5 U.S.C. 8474;

*F Fund* means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B);

*G Fund* means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A);

*Individual account* means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a);

*Investment fund* means either the G Fund, the F Fund, or the C Fund, or any other Thrift Savings Plan investment fund created after June 24, 1997;

*Open season* means the period during which participants may choose to begin making contributions to the Thrift Savings Plan, to change or discontinue the amount they are cur-

rently contributing to the Thrift Savings Plan (without losing the right to recommence contributions the next open season), or to allocate prospective contributions to the Thrift Savings Plan among the investment funds;

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

*Record keeper* means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. As of June 24, 1997, the record keeper is the National Finance Center, Office of the Chief Financial Officer, United States Department of Agriculture, located in New Orleans, Louisiana.

*Source of contributions* means either agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1) or 8432(c)(3), agency matching contributions under 5 U.S.C. 8432(c)(2), or employee contributions under 5 U.S.C. 8351, or 8440(a) through 8440d;

*Thrift Savings Plan* means the Federal Retirement Thrift Savings Plan established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, which has been codified, as amended, largely at 5 U.S.C. 8401-8479.

[52 FR 20371, June 1, 1987, as amended at 62 FR 34154, June 24, 1997]

#### § 1640.2 Duty to provide information.

The Executive Director will provide the information prescribed in §§ 1640.3 and 1640.5 at least once every six months, and not later than thirty (30) days before the last month of an open season.

[62 FR 34155, June 24, 1997]

#### § 1640.3 Statement of individual account.

The Executive Director will furnish each participant with the following information concerning that participant's individual account:

- (a) Name and social security number under which the account is established;
- (b) Beginning and ending dates of the period covered by the statement;
- (c) As of the opening of business on the beginning date and the close of