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12 CFR Ch. III (1–1–05 Edition)

hearing is not necessary, he or she shall decide the issues raised by the employee based upon a review of the written record.

(4) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this section.

(c) *Rescheduling of the hearing date.* The hearing official shall reschedule a hearing if requested to do so by both parties, who shall be given reasonable notice of the time and place of this new hearing.

(d) *Failure to appear.* In the absence of good cause, an employee who fails to appear at a hearing shall be deemed, for the purpose of this subpart, to admit the existence and amount of the debt as described in the Notice of Intent. If the representative of the creditor agency fails to appear, the hearing official shall proceed with the hearing as scheduled, and issue a decision based upon the oral testimony presented and the documentation submitted by both parties.

(e) *Date of decision.* The hearing official shall issue a written decision based upon the evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than 60 calendar days after the date on which the request for hearing was received by the FDIC, unless the hearing was delayed at the request of the employee. In the event of such a delay, the 60-day decision period shall be extended by the number of days by which the hearing was postponed. The decision of the hearing official shall be final.

(f) *Content of decision.* The written decision shall include:

(1) A summary of the facts concerning the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The terms of the repayment schedule, if applicable.

(g) *Official certification of debt.* The hearing official's decision shall constitute an official certification regarding the existence and amount of the debt for purposes of executing salary offset under 5 U.S.C. 5514. Where the FDIC is the creditor agency but not the current paying agency, the FDIC may make a certification regarding the ex-

istence and amount of the debt owed to the FDIC, based on the hearing official's certification. The FDIC may make this certification to: the Secretary of the Treasury so that Treasury may offset the employee's current pay account by means of centralized administrative offset (5 CFR 550.1108); or to the current paying agency (5 CFR 550.1109). If the hearing official determines that a debt may not be collected through salary offset but the FDIC as the creditor agency determines that the debt is still valid, the FDIC may seek collection of the debt through other means, including administrative offset of other federal payments or litigation.

§ 313.45 Certification of debt by FDIC as creditor agency.

The Director may also issue a certification of the debt where there has not been a hearing, if the employee has admitted the debt, or failed to contest the existence and amount of the debt in a timely manner (*e.g.*, by failing to request a hearing). The certification shall be in writing and shall state:

(a) The amount and basis of the debt owed by the employee;

(b) The date the FDIC's right to collect the debt first accrued;

(c) That the FDIC's debt collection regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(d) If the collection is to be made by lump-sum payment, the amount and date such payment will be collected;

(e) If the collection is to be made in installments through salary offset, the number of installments to be collected, the amount of each installment, and the date of the first installment, if a date other than the next officially established pay period; and

(f) The date the employee was notified of the debt, the action(s) taken pursuant to the FDIC's regulations, and the dates such actions were taken.

§ 313.46 Notice of salary offset where FDIC is the paying agency.

(a) Upon issuance of a proper certification by the Director for debts owed to the FDIC, or upon receipt of a proper certification from a creditor agency, the Director shall send the employee a

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written notice of salary offset. Such notice shall advise the employee:

(1) That certification has been issued by the Director or received from another creditor agency;

(2) Of the amount of the debt and of the deductions to be made; and

(3) Of the initiation of salary offset at the next officially established pay interval or as otherwise provided for in the certification.

(b) Where appropriate, the Director shall provide a copy of the notice to the creditor agency and advise such agency of the dollar amount to be offset and the pay period when the offset will begin.

§ 313.47 Voluntary repayment agreements as alternative to salary offset where the FDIC is the creditor agency.

(a) In response to a Notice of Intent, an employee may propose to voluntarily repay the debt through scheduled voluntary payments, in lieu of salary offset. An employee who wishes to repay a debt in this manner shall submit to the Director a written agreement proposing a repayment schedule. This proposal must be received by the Director within 30 calendar days after receipt of the Notice of Intent.

(b) The Director shall notify the employee whether the employee's proposed voluntary repayment agreement is acceptable. It is within the discretion of the Director whether to accept or reject the debtor's proposal, or whether to propose to the debtor a modification of the proposed repayment agreement:

(1) If the Director decides that the proposed repayment agreement is unacceptable, he or she shall notify the employee and the employee shall have 30 calendar days from the date he or she received notice of the decision in which to file a request for a hearing on the proposed repayment agreement, as provided in § 313.42; or

(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 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