

(2) The maximum amount of penalties and assessments for which the Defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific Statement of the Defendant's right to request a hearing by filing an answer and to be represented by a Representative; and

(4) That failure to file an answer within 30 days of service of the Complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in §13.10.

(5) That the Defendant may obtain copies of relevant material and exculpatory information pursuant to the process outlined in §13.20.

(c) At the same time the Reviewing Official serves the Complaint, he or she will serve the Defendant with a copy of the regulations in this part.

#### §13.8 Service of Complaint.

(a) Service of a Complaint must be Made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service of a Complaint is complete upon receipt.

(b) Proof of service, stating the name and address of the Person on whom the Complaint was served, and the manner and date of service, may be Made by:

(1) Affidavit of the Individual serving the Complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the Defendant or his or her Representative; or

(4) In case of service abroad, authentication in accordance with the Convention on Service Abroad of Judicial and Extrajudicial Documents in Commercial and Civil Matters.

#### §13.9 Answer.

(a) The Defendant may request a hearing by serving an answer on the Reviewing Official within 30 days of service of the Complaint. Service of an answer will be Made by delivering a copy to the Reviewing Official or by placing a copy in the United States mail, postage prepaid and addressed to the Reviewing Official. Service of an

answer is complete upon such delivery or mailing. An answer will be deemed to be a request for hearing.

(b) In the answer, the Defendant:

(1) Will admit or deny each of the allegations of liability Made in the Complaint;

(2) Will state any defense on which the Defendant intends to rely;

(3) May state any reasons why the Defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Will state the name, address, and telephone number of the Person authorized by the Defendant to act as Defendant's Representative, if any.

(c) If the Defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the Defendant may, before the expiration of 30 days from service of the Complaint, serve on the Reviewing Official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to serve an answer meeting the requirements of paragraph (b) of this section. The Reviewing Official will file promptly the Complaint, the general answer denying liability, and the request for an extension of time as provided in §13.11. For good cause shown, the ALJ may grant the Defendant up to 30 additional days from the original due date within which to serve an answer meeting the requirements of paragraph (b) of this section.

#### §13.10 Default upon failure to answer.

(a) If the Defendant does not answer within the time prescribed in §13.9(a), the Reviewing Official may refer the Complaint to an ALJ by filing the Complaint and a Statement that Defendant has failed to answer on time.

(b) Upon the referral of the Complaint, the ALJ will promptly serve on Defendant in the manner prescribed in §13.8, a notice that an Initial Decision will be issued under this section.

(c) In addition, the ALJ will assume the facts alleged in the Complaint to be true, and, if such facts establish liability under §13.3, the ALJ will issue an Initial Decision imposing the maximum amount of penalties and assessments allowed under the statute.