

§ 3.12

advice from OGC concerning the impact of the Bankruptcy Code on any pending or contemplated collection activities. Unless the agency is advised that the automatic stay imposed at the time of filing pursuant to 11 U.S.C. 362 has been lifted or is no longer in effect, in most cases collection activity against the debtor must stop immediately. The agency should take the following steps:

(1) After seeking legal advice, a proof of claim must be filed in most cases with the bankruptcy court or the Trustee. Agencies shall refer to the provisions of 11 U.S.C. 106 relating to the consequences on sovereign immunity of filing a proof of claim.

(2) If the agency is a secured creditor, it may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of 11 U.S.C. 362.

(3) Offset is stayed in most cases by the automatic stay. However, agencies may seek legal advice from OGC to determine whether their payments to the debtor and payments of other agencies available for offset may be frozen by the agency until relief from the automatic stay can be obtained from the bankruptcy court. Agencies also may seek legal advice from OGC to determine whether recoupment is available.

§ 3.12 Reporting of consumer debts.

(a) *Notice.* In demand letters to debtors sent in accordance with § 3.11, agencies shall inform debtors:

(1) The intent of the agency to report the delinquent consumer debt to credit reporting agencies after 60 days;

(2) The specific information to be transmitted (*i.e.*, name, address, and taxpayer identification number, information about the debt);

(3) The actions which may be taken by the debtor to prevent the reporting (*i.e.*, repayment in full or a repayment agreement); and

(4) The rights of the debtor to seek review of the existence of the debt in accordance with subpart F.

(b) *Disclosure.* Disclosure of delinquent consumer debts must be consistent with the requirements of 31 U.S.C. 3711(e), the Privacy Act of 1974 (5 U.S.C. 552a), the Bankruptcy Code, and 31 CFR 901.4.

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(c) *Non-duplication of hearings.* When an agency has given a debtor any of the notices required by this part and an opportunity for administrative review under subpart F, the agency need not duplicate such notice and review opportunities before reporting the delinquent debt to credit bureaus.

(d) *Stay of disclosure.* Agencies shall not disclose a delinquent debt to a credit reporting agency if a debtor requests review under subpart F until a final determination is made by a reviewing official that upholds the agency intent to disclose.

(e) *Commercial debt.* The requirement of this section does not apply to commercial debts, although agencies should report commercial debts to commercial credit bureaus.

§ 3.13 Contracting with private collection contractors and with entities that locate and recover unclaimed assets. [Reserved]

§ 3.14 Suspension or revocation of eligibility for loans and loan guarantees, licenses, permits, or privileges.

(a) Agencies are not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency, except as otherwise authorized by law or upon waiver of application of this section by the USDA Chief Financial Officer (CFO) or Deputy CFO. This prohibition does not apply to disaster loans. Agencies may extend credit after the delinquency has been resolved. The Secretary of the Treasury may exempt classes of debts from this prohibition and has prescribed standards defining when a “delinquency” is “resolved” for purposes of this prohibition. *See* 31 CFR 285.13 (Barring Delinquent Debtors From Obtaining Federal Loans or Loan Insurance or Guarantees).

(b) Similarly, agencies also are not permitted to extend financial assistance (either directly or indirectly) in the form of grants, loans, or loan guarantees to judgment debtors who have a judgment lien placed against their property until the judgment is satisfied, unless the agency grants a waiver in accordance with agency regulations. *See* 31 U.S.C. 3201(e).