

VOLUME 16, CHAPTER 6: “DEBT OWED TO THE DEPARTMENT OF DEFENSE (DoD) BY FOREIGN ENTITIES”**SUMMARY OF MAJOR CHANGES**

Changes are identified in this table and also denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version date [January 2021](#) is archived.

| PARAGRAPH | EXPLANATION OF CHANGE/REVISION | PURPOSE |
|-------------|---|----------|
| 1.1.4 | Added explanation of Acquisition and Cross-Servicing Agreements (ACSA). | Addition |
| 3.2.4.2 | Per Defense Security Cooperation Agency (DSCA) direction, added reference to payment on delivery and billed amounts to better clarify definition of arrearage. | Addition |
| 060302.D.2I | Per, the Arms Export Control Act, Public Law 90-629, as amended, codified in Title 22, United States Code, Chapter 39, DoD Financial Management Regulation; Volume 15, Chapter 5; and DSCA Office of General Counsel opinion, issued August 2020, deleted reference to arrearage occurring when single payment is not made by payment due date, as arrearage only occurs when collective accrued costs exceed total, country-level cash availability. | Deletion |

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CHAPTER 6

DEBT OWED TO THE DEPARTMENT OF DEFENSE (DoD) BY FOREIGN ENTITIES

1.0 GENERAL

1.1 Overview

1.1.1. The DoD policy is to conduct timely and aggressive debt collection action, with follow-up efforts as necessary, to ensure that debt owed to the DoD by a foreign entity is collected and held to the absolute minimum. Further, all collection activities related to foreign-entity indebtedness, including all Acquisition and Cross-Servicing Agreement (ACSA) debt, will be done in compliance with the provisions of the applicable agreement or treaty with the foreign entity.

1.1.2. For purposes of this chapter, a foreign entity does not include foreign individuals or foreign vendors and will only refer to the following definitions:

1.1.2.1. Any government of a foreign country, and any subdivision, agency, or instrumentality thereof, including all foreign “official” institutions, even those located in the U.S.;

1.1.2.2. Any private relief, philanthropic, or other organization of a multinational or regional character with headquarters abroad; and

1.1.2.3. Any official multinational organization, defined as any international or regional organization (or affiliated agency thereof), created by treaty or convention between sovereign states.

1.1.3. Foreign-entity indebtedness means financial obligations owed to the U.S. Government by a foreign entity, as defined for purposes of this chapter. Foreign-entity indebtedness includes Foreign Military Sales (FMS) arrearages, accounts receivable for goods and/or services provided, and erroneous payments made to foreign entities. Foreign-entity indebtedness does not include principal payments or interest on short-term and long-term loans and credits.

1.1.4. ACSAs are applicable worldwide to either acquire logistics support, supplies, and services or provide them to a foreign government or organization.

1.2 Purpose

This chapter establishes policy for the DoD Components for identifying, billing, collecting, and managing foreign-entity indebtedness, including FMS and non-FMS. This chapter does not establish policy for billing and collecting for non-FMS fuel debts, foreign fuel exchange agreement debts, foreign direct bills, or FMS fuel debts. Unpaid debts related to fuel agreements, to include Replacement-in-Kind/Equal Value Exchange settlements, foreign direct bills, and FMS, should be billed and elevated through the Defense Logistics Agency – Finance Energy (subparagraph 3.1.3.2 and paragraph 3.2 are not applicable).

1.3 Authoritative Guidance

DoD must pursue and report all foreign indebtedness in accordance with the following:

1.3.1. The Arms Export Control Act (AECA), Public Law 90-629, as amended, codified in Title 22, United States Code, Chapter 39 ([22 U.S.C. Chapter 39](#)) for FMS arrearages;

1.3.2. [31 U.S.C. § 3719](#); and

1.3.3. [10 U.S.C. Chapter 138](#), Subchapter I, §§ 2341-2350.

2.0 RESPONSIBILITIES

2.1 DoD Component Responsibilities

DoD Components are responsible for:

2.1.1. Providing timely documentation to the Accounts Receivable Office (ARO) to establish the foreign-entity accounts receivable in the accounting records. Documentation must include applicable line(s) of accounting;

2.1.2. Providing collection information to the ARO if a collection for a foreign-entity debt is received by the DoD Component fund holder;

2.1.3. Assisting in notifying the appropriate foreign entity of the delinquent debt and working with the foreign entity to resolve disputed amounts;

2.1.4. Working with appropriate DoD and/or U.S. Government activities (e.g., the Defense Security Cooperation Agency (DSCA), the Military Departments, the Joint Chiefs of Staff, the Combatant Commands, the Department of State, and each country's U.S. Embassy's Office of Defense Cooperation) to collect the delinquent, foreign-entity debt;

2.1.5. Assisting the ARO to obtain necessary documentation, and point of contact information, to collect delinquent, foreign-entity debt;

2.1.6. Ensuring that foreign-entity debts (FMS arrearages and non-FMS debts) are reviewed during the Dormant Account Review - Quarterly of Undelivered Orders; Delivered Orders, Unpaid; Undelivered Orders, Paid; and Unfilled Customer Orders, in accordance with Volume 3, Chapter 8;

2.1.7. Recommending, coordinating, and/or approving recommendations to aggressively pursue delinquent, foreign debt, pursuant to the law and applicable agreement with foreign entities; and

2.1.8. Completing other actions pertaining to FMS arrearages and non-FMS, foreign-entity debts, as specified throughout this chapter.

2.2 ARO Responsibilities

The ARO is responsible for:

2.2.1. Preparing and sending the initial bill to the foreign entity and performing follow-up actions on non-FMS debts, to include sending a written, follow-up demand letter if a debt remains unpaid (31 days after the date of the initial demand letter). Refer to [Exhibit 6-1](#) for a sample demand letter and subparagraph [3.1.2.2](#) for demand letter requirements;

2.2.2. Ensuring that collection of foreign-entity debt is completed in compliance with the law and applicable agreements with foreign entities;

2.2.3. Ensuring that the foreign-entity debt is valid. See Volume 4, Chapter 3 for accounting procedures when it is determined that a debt is not valid;

2.2.4. Processing all accounting transactions related to foreign-entity accounts receivable. This includes, but is not limited to:

2.2.4.1. Establishing and maintaining the accounts receivable in the applicable accounting system;

2.2.4.2. Crediting collections to the applicable line of accounting;

2.2.4.3. Aging delinquent, foreign-entity accounts receivable (refer to subparagraph [3.1.1](#)); and

2.2.4.4. Preparing and submitting accounts receivable reports to the appropriate offices (e.g., Defense Finance and Accounting Service (DFAS) Departmental Accounting, DSCA, Department of State, U.S. Department of Treasury (Treasury), or Department of Commerce (Commerce)). See section [8.0](#);

2.2.5. Working with the DoD Component fund holder to resolve disputed, foreign-entity debt;

2.2.6. Coordinating with the DoD Component fund holder on other actions, as needed, to resolve foreign-entity debt;

2.2.7. Retaining required supporting documentation related to accounts receivable in accordance with Volume 4, Chapter 3;

2.2.8. Reporting delinquent, non-FMS, ACSA-related debts that are still outstanding 1 year and 3 months after initial billing to the DFAS Program Manager (PM); and

2.2.9. Using the DFAS Contractor Debt System to record delinquent debts from canceling years during year-end closeout.

2.3 DFAS PM Responsibilities

The DFAS PM is responsible for general oversight of the ACSA debt collection process, elevating delinquent debts to the respective ACSA Combatant Command, Joint Staff, and other key stakeholders (e.g., Office of the Under Secretary of Defense (Comptroller)) when appropriate, and reporting debts established for a canceling-year appropriation that remain delinquent at year-end closeout.

2.4 DSCA Responsibilities

DSCA is the principal DoD Component responsible for:

2.4.1. Completing actions concerning FMS arrearages and indebtedness, to include making a determination if charging interest or referral to the Department of Justice (DOJ) is required. For purchasers who have delinquent payments due, or who have accrued costs that exceed available cash, DSCA will evaluate the purchaser's entire program to determine whether or not a letter to the purchaser requesting payment is justified. If so, then DSCA will issue a written notification to the purchaser within 30 days of the end of the preceding quarter. If no response is received, then additional written follow-ups will be made at succeeding 30-day intervals;

2.4.2. Approving FMS feeder arrearage reports prepared by DFAS, Departmental Accounting, in accordance with this chapter;

2.4.3. Working with the purchaser, the responsible DoD Component, and DFAS Security Cooperation Accounting (SCA) to identify the specific issue and remedy (e.g., adjustments to ordered values, delivery timeframes, ordered quantity, collection of additional funds, or other alternative financial arrangements) when insufficient funds are available for DoD to meet the collective cash requirements for an FMS purchaser;

2.4.4. Administering and managing FMS long-term loan and credit programs authorized under the AECA, or other authorities, and identifying delinquent amounts associated with these programs; and

2.4.5. Completing other actions as necessary, to include required reporting to the Department of State and others.

2.5 DFAS SCA Responsibilities

DFAS SCA is responsible for:

2.5.1. Utilizing updated FMS payment schedules, and other financial performance criteria, to bill foreign governments and international organizations on the quarterly DoD (DD) Form 645, FMS Billing Statement, and/or special billing statements approved by DSCA;

2.5.2. Coordinating with DSCA to identify, report, and collect FMS arrearages and other delinquent amounts; and

2.5.3. Providing quarterly reports to DSCA to identify those FMS purchasers who are delinquent in payment from the previous quarter, as well as daily reports to identify purchasers' average disbursement rates and estimated number of months of cash on hand.

2.6 DFAS Responsibilities

DFAS Departmental Accounting is responsible for preparing FMS feeder arrearage reports in accordance with this chapter and the TFM, and submitting the reports to Treasury after coordination and approval by DSCA.

3.0 BILLING AND FOLLOW-UP ACTIONS

3.1 Non-FMS, Foreign-Entity Debt

3.1.1. Due Date. All non-FMS, foreign-entity debt will be due 30 days from the date of the bill/demand letter, unless otherwise stated in the bill, contract, or agreement between the DoD Component and the foreign entity. The bill/demand letter will include a 60-day grace period. Therefore, the debt becomes delinquent 91 days from the date of the bill/demand letter.

3.1.2. Initial Billing/Notification

3.1.2.1. The ARO will prepare and send initial billings and notifications for goods and/or services for all non-FMS, foreign-entity debt. AROs will include the information listed in subparagraph 3.1.2.2 in the initial debt notification accompanying the bill.

3.1.2.2. The ARO will prepare and send the initial demand for non-FMS, foreign-entity debts. See Exhibit 6-1 for a sample demand letter. The demand letter will include, at a minimum, the following information:

3.1.2.2.1. The basis for and amount of the indebtedness;

3.1.2.2.2. The date by which payment must be made in full;

3.1.2.2.3. The address where payment should be sent or information regarding submission of electronic payment;

3.1.2.2.4. The name, address, and telephone number of a point of contact in the ARO who can discuss alternative methods of payment; and

3.1.2.2.5. Any available documentation that substantiates the debt.

3.1.3. Follow-up Actions

3.1.3.1. ARO. The ARO will perform follow-up actions on all non-FMS, foreign-entity debts. If the foreign entity does not provide payment by the due date, or other date specified in the agreement between the DoD Component and the foreign entity, then the ARO will immediately send a written, follow-up demand letter. Include the information listed in subparagraph 3.1.2.2 if not included in the initial billing/demand letter. One follow-up letter is required prior to referral to the DFAS PM. The ARO will not refer delinquent, foreign-entity debts to Treasury for cross-servicing, or for participation in the Treasury Offset Program (TOP), because these debts are exempt from referral.

3.1.3.2. DFAS PM. ARO personnel will elevate unpaid debt cases to the DFAS PM as described in subparagraph 2.2.8. The DFAS PM will then take responsibility for attempting to resolve these cases with the respective Combatant Commands and Joint Staff.

3.2 FMS Accounts Receivable

3.2.1. Legal Requirements

3.2.1.1. For sales from stock, AECA, Section 21(b), codified as [22 U.S.C. § 2761](#), requires DoD to collect payments from foreign purchasers in advance or, if the President determines it to be in the national interest, upon the delivery of a defense article or the rendering of a defense service. After a determination by the President that it is in the national interest to bill upon the delivery of a defense article or the rendering of a defense service, interest will be charged in accordance with AECA, Section 21(d), 22 U.S.C. § 2761(d), on any net amount due and payable that is not paid within 60 days after the date of such billing.

3.2.2.2. The President delegated the authority to determine if billing upon delivery is in the national interest in [Executive Order 13637](#), and the Secretary of Defense further delegated the authority to the Director, DSCA, in [DoD Directive 5105.65](#). The President may extend the period to 120 days if he determines that emergency requirements of the purchaser will exceed the ready availability of purchaser funds to the U.S. Government within the 60 days. In this case, the President submits a determination with a special emergency request for authorization and appropriation of additional funds to finance such purchases under the AECA.

3.2.2.3. For sales from procurements (items sent directly from the source, and not from DoD inventories), when the country is authorized a dependable undertaking, AECA, Section 22(a), [22 U.S.C. § 2762\(a\)](#), requires DoD to collect payments from foreign purchasers in time to meet contractual payments, including any damages and costs that may accrue from the cancellation of such contracts. The AECA, Section 22(a), requires interest to be charged on any net amount by which a foreign purchaser is in arrears, taking into consideration all of its outstanding unliquidated dependable undertakings.

3.2.2. Due Date. Refer to Volume 15, Chapter 8 for policy regarding FMS billing due dates.

3.2.3. Initial Billing. DFAS SCA is responsible for issuing FMS billing documents. Billings for financial requirements will be initiated by using the DD 645, or the special billing statement approved by DSCA. These billings must, at a minimum, identify the financial requirements, amount paid, and amount due. Specific policy on FMS billings is in Volume 15, Chapter 8.

3.2.4. FMS Arrearages

3.2.4.1. When the amount due per the DoD billing statement is not paid by the due date, that amount is considered delinquent, but that does not necessarily constitute an arrearage.

* 3.2.4.2. For FMS cases authorized to include a term of sale of "Payment on Delivery," and for FMS purchasers authorized "dependable undertaking" terms of sale, an arrearage occurs when the FMS purchaser's total cash resources on deposit with the U.S. Government are insufficient to cover all its outstanding, **billed amounts**, unliquidated dependable undertakings, considered collectively. Reference Volume 15, Chapter 4, subparagraph **040301.B** for information on dependable undertaking.

3.5.2. Follow-up Actions

3.5.2.1. FMS purchasers are required to pay in advance of performance unless the President determines it to be in the national interest to collect upon delivery of the defense article or the rendering of the defense service. Refer to 22 U.S.C. § 2761. Therefore, in the FMS program, an arrearage is an unusual event.

3.5.2.2. If required, written notification to the purchaser will normally be sent within 30 days of the end of the preceding quarter. If no response is received, then additional written follow-up must be made at succeeding 30-day intervals. Delinquent FMS arrearages must not be referred to Treasury for cross-servicing or participation in TOP.

4.0 INTEREST, ADMINISTRATIVE CHARGES, AND PENALTIES FOR FMS ARREARAGES

4.1 General

In accordance with 22 U.S.C. § 2761(d) and 22 U.S.C. § 2762(a), interest will be charged on FMS arrearages. The final determination regarding assessment of interest on FMS arrearages will reside with DSCA. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage. For the interest rate due on FMS delinquent payments, see [*TreasuryDirect*](#). Once there, select the applicable month and "Table 5 - Department of Defense Arms Export Control Act." For the proper disposition of interest funds collected, refer to Volume 4, Chapter 3, Annex 1. Non-FMS, foreign debts owed by any sovereign state are exempt from interest, administrative charges, and penalties.

4.2 Term of Sale – Payment on Delivery

Interest assessed on arrearages resulting from FMS cases with a term of sale of “Payment on Delivery” must be computed from the date of the billing. Figure 6-1 provides an illustration of the applicability of interest in these cases.

4.3 Insufficient Case Resources

Interest assessed on arrearages resulting from a purchaser’s total cash resources on deposit being insufficient to cover its outstanding, unliquidated dependable undertakings is computed from the date on which the net arrearage occurs. Net arrearage occurs on the date that DFAS SCA determines that the accrued costs exceed available cash.

5.0 REFERRAL OF FMS INDEBTEDNESS

5.1 Authority to Refer FMS Indebtedness

DSCA will determine if an FMS arrearage will be forwarded to DOJ for litigation.

5.2 Preservation of Evidence

The ARO, DFAS PM, DoD Component, and DSCA must retain all files and records that may be needed by DOJ to prove the case in court. Reference Volume 1, Chapter 9 for additional information on record retention.

6.0 COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION ACTIONS FOR FMS ARREARAGES

DFAS SCA, in cooperation with the DoD Component, must coordinate proposals to compromise, suspend, or terminate collection actions on FMS arrearages with DSCA. Refer to Chapter 2, section [14.0](#) for policy on compromise, suspension, or termination of collection actions.

7.0 WRITE OFF AND CLOSE OUT OF FMS ARREARAGES

DSCA is responsible for initiating and coordinating all actions necessary to write off and close out FMS arrearages. Refer to Volume 4, Chapter 3, paragraph [4.7](#) for write-off and closeout requirements.

8.0 REPORTING FOREIGN INDEBTEDNESS

8.1 Reporting

Foreign indebtedness must be uniformly and accurately reported through appropriate reporting channels to Treasury and Commerce.

8.2 Required Reports

8.2.1. Grants, Loans, Credits, and Contingent Liabilities Involving Foreigners. The [TFM, Volume I, Part 2, Chapter 4500](#) requires the electronic submission of several reports pertaining to foreign obligors to Treasury by the 45th day following the end of the reporting quarter, if applicable. These reports are prepared and submitted by DFAS [Security Assistance Accounting \(SAA\) Departmental](#). The data for these reports is extracted from the DSCA FMS Credit System. The TFM, Volume I, Part 2, Chapter 4500 provides detailed guidance, formats for the reports, and instructions for completing and submitting the reports.

8.2.2. Data Editing. DFAS [SAA Departmental](#) must complete the quarterly data editing and approval process using Treasury's Foreign Credit Reporting System (FCRS) within 2 weeks after receiving notification that the reporting period data is available for editing. The "FCRS Web Site Overview and Data Editing Guide for Agency Users," which is available only to authorized users on the FCRS web site, contains instructions for the quarterly data editing and approval process. The required reports are:

8.2.2.1. Direct Long-Term Credits History,

8.2.2.2. Guarantees and Insurance of Long-Term Credits History,

8.2.2.3. Direct Long-Term Credits Status,

8.2.2.4. Guarantees and Insurance of Long-Term Credits Status,

8.2.2.5. Direct Long-Term Credits Scheduled Payments, and

8.2.2.6. Guarantees and Insurance of Long-Term Credits Scheduled Payments.

8.2.3. Treasury Report on Receivables (TROR). DFAS and DoD Component accounting offices must ensure that the TROR includes foreign indebtedness as required by Volume 4, Chapter 3, section [6.0](#).

8.3 Preliminary Case Analysis Report of FMS Arrearages

The National Advisory Council (NAC) monitors major foreign arrearages. For this purpose, a major foreign arrearage is any country program arrearage that involves the sum of \$250,000 or more. Periodically, DSCA will request a Preliminary Case Analysis Report (PCAR) from DFAS to satisfy NAC requirements. The PCAR will be submitted directly to DSCA by

DFAS in email message form. The report will reflect any foreign arrearages so that a determination can be made on whether interest should be charged.

8.4 Collecting and Reporting Foreign Debts Under Long-Term Loans and Debts

DSCA is responsible for administering FMS long-term loans and credit programs authorized by [22 U.S.C. § 2763](#) and determining foreign arrearages against these programs.

Exhibit 6-1. Sample ARO Demand Letter

EMA CPCO
 14 RUE SAINT DOMINIQ UE
 75007 PARIS
 FRANCE

The attached bill for articles/services provided to your government under the following Acquisition Cross-Servicing Agreement (ACSA) order is forwarded to your office for payment.

| ACSA Invoice | Bill Month | Amount |
|--------------|------------|--------|
|--------------|------------|--------|

Payment in U.S. Dollars is due within 30 days from the date of this letter, and may be made by:

CHECK Make payable to: United States Treasury
 Mail to:

DFAS-IN Central Disbursing Directorate
 Collections Branch· ALC 5570
 8899 E 56th St.
 Indianapolis, IN 46249 USA;

FEDWIRE Transfers in U.S. Dollars

Bank Name/Account Name: TREAS
 NYC, NEW YORK, NY US Address:
 33 Liberty St, New York, NY 10045
 Fed Routing #: XXXXXXXXXX
 Account Name: TREAS NYC, NEW YORK, NY US
 Account #: XXXXXXXXXXXXXX (12-digit Credit Gateway account #)
 Collections Information Repository ID); or

SWIFT Transfers in U.S. Dollars

Bank Name/Account Name; TREAS
 NYC, NEW YORK, NY US Address:
 33 Liberty St., New York, NY 10045
 Fed Routing #: XXXXXXXXXXXX
 Account Name. TREAS NYC, NEW YORK, NY US
 Account#: XXXXXXXXXXXXXX (12-digit Credit Gateway account #/Collections Information
 Repository ID).

Payment Details:

Wire transfer fees and other shortages are the responsibility of the remitter.

Thank you for your attention to this matter. When paying, please reference DFAS Rome, the customer and bill number(s) with your remittance. For billing or collection questions, please contact <Name> at <phone number> or <email>.

<Name>
 Director, Accounts Receivable Directorate

Figure 6-1. Illustration of the Applicability of Interest
(Pertains To 22 U.S.C. § 2761 Only)

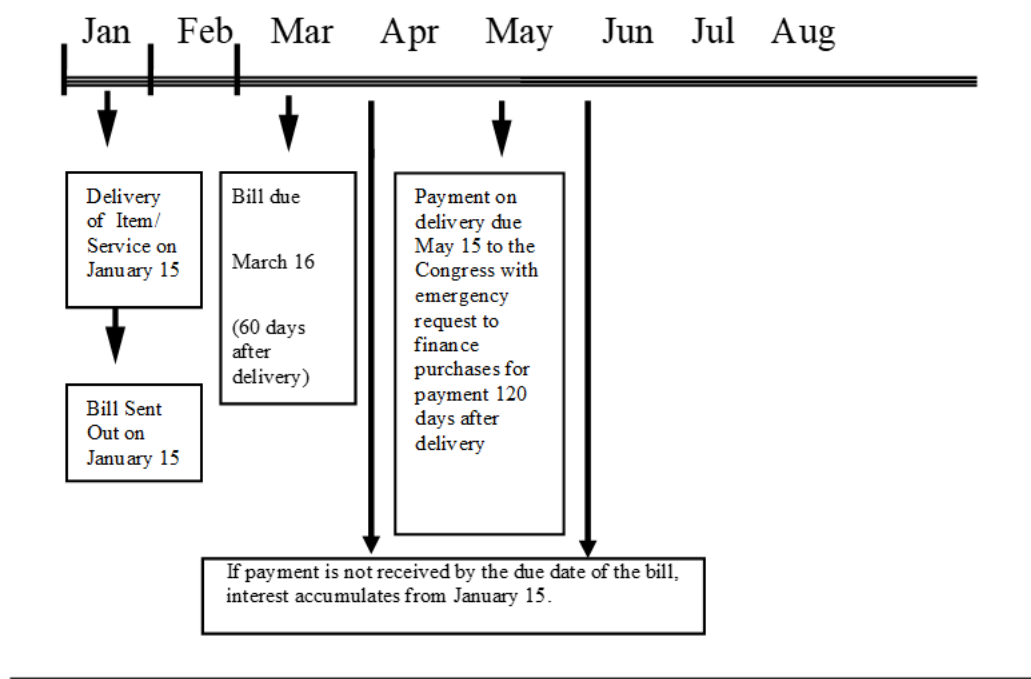


Figure 6-2. Report of Current Status of Accounts Receivable (Original Maturity of Less than 90 Days) from Foreign Obligor

| REPORTING AGENCY | | CURRENT STATUS OF ACCOUNTS RECEIVABLE (ORIGINAL MATURITY OF LESS THAN 90 DAYS) FROM FOREIGN OBLIGORS | | | DATE OF SUBMISSION | | |
|------------------------|----------------|--|---------------------------------------|----------|--------------------|------|------|
| CURRENT STATUS AS OF | | | | | PAGE 1 OF | | |
| COUNTRY PROGRAM (1) | Cur Ind (2) | TOTAL AMOUNT OUTSTANDING | AMOUNT DUE AND UNPAID 90 DAYS OR MORE | | CODES | | |
| | | (3) | (4) | (5) | (6) | (7) | (8) |
| | | OFFICIAL | PRIVATE | OFFICIAL | PRIVATE | CTRY | PROG |
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