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month after the former spouse remarries before age 55 or dies, or the former spouse's eligibility for a former spouse annuity terminates under the terms of a qualifying court order, unless—

(1) The retiree elects, within 2 years after the former spouse's death or remarriage, to continue the reduction to provide or increase a former spouse annuity for another former spouse, or to provide or increase a current spouse annuity; or

(2) A qualifying court order requires the retiree to provide another former spouse annuity.

(e) The maximum rate of a former spouse annuity under this section or §831.632 is 55 percent of the rate of the retiring employee's or Member's self-only annuity if the employee or Member is retiring based on a separation from a position under CSRS on or after October 11, 1962. The maximum rate of a former spouse annuity under this section or §831.632 is 50 percent of the rate of the retiring employee's or Member's self-only annuity if the employee or Member is retiring based on a separation from a position covered under CSRS between September 30, 1956, and October 11, 1962.

(f)(1) The amount of the reduction to provide one or more former spouse annuities or a combination of a current spouse annuity and one or more former spouse annuities under this section equals 2½ percent of the first $3600 of the total designated survivor base plus 10 percent of the portion of the total designated survivor base which exceeds $3600, if—

(i) The employee's or Member's separation on which the retirement is based was on or after October 11, 1962; or

(ii) The reduction is to provide a former spouse annuity (under §831.632) for a former spouse from whom the employee or Member was divorced after retirement.

(2) The amount of the reduction to provide one or more former spouse annuities or a combination of a current spouse annuity and one or more former spouse annuities under this section for employees or Members whose retirement is based on separations before October 11, 1962, equals 2½ percent of the first $2400 of the total designated survivor base plus 10 percent of the portion of the total designated survivor base which exceeds $2400.

[50 FR 20070, May 13, 1985, as amended at 51 FR 31931, Sept. 8, 1986; 55 FR 9100, Mar. 12, 1990; 58 FR 52880, Oct. 13, 1993. Redesignated at 58 FR 52882, Oct. 13, 1993]

§831.613 Election of insurable interest annuity.

(a) At the time of retirement, an employee or Member in good health, who is applying for a non-disability annuity, may elect an insurable interest annuity. Spousal consent is not required, but an election under this section does not exempt a married employee or Member from the provisions of §831.611(a).

(b) An insurable interest annuity may be elected by an employee or Member electing a fully reduced annuity or a partially reduced annuity to provide a current spouse annuity or a former spouse annuity or annuities.

(c)(1) In the case of a married employee or Member, an election under this section may not be made on behalf of a current spouse unless that current spouse has consented to an election not to provide a current spouse annuity in accordance with §831.611(a)(1).

(2) A consent (to an election not to provide a current spouse annuity in accordance with §831.611(a)(1)) required by paragraph (c)(1) of this section to be eligible to be the beneficiary of an insurable interest annuity is cancelled if—

(i) The retiree fails to qualify to receive the insurable interest annuity; or

(ii) The retiree changes his or her election to receive an insurable interest annuity under §831.621; or

(iii) The retiree elects a fully or partially reduced annuity to provide a current spouse annuity under §831.685.

(3) An election of a partially reduced annuity under §831.622(b) or §831.685 to provide a current spouse annuity for a current spouse who is the beneficiary of an insurable interest annuity is void unless the spouse consents to the election.

(4) If a retiree who had elected an insurable interest annuity to benefit a current spouse elects a fully reduced

annuity to provide a current spouse annuity (or, with the consent of the current spouse, a partially reduced annuity to provide a current spouse annuity) under § 831.622(b) or § 831.685, the election of the insurable interest annuity is cancelled.

(5)(i) A retiring employee or Member may not elect a fully reduced annuity or a partially reduced annuity to provide a former spouse annuity and an insurable interest annuity to benefit the same former spouse.

(ii) If a retiring employee or Member who is required by court order to provide a former spouse annuity elects an insurable interest annuity to benefit the former spouse with the court-ordered entitlement—

(A) If the benefit based on the election is greater than or equal to the benefit based on the court order, the election of the insurable interest annuity will satisfy the requirements of the court order as long as the insurable interest annuity continues.

(B) If the benefit based on the election is less than the benefit based on the court order, the election of the insurable interest annuity is void.

(iii) An election under § 831.632 of a fully reduced annuity or a partially reduced annuity to benefit a former spouse by a retiree who elected and continues to receive an insurable interest annuity to benefit that former spouse is void.

(d) To elect an insurable interest annuity, an employee or Member must indicate the intention to make the election on the application for retirement; submit evidence to demonstrate that he or she is in good health; and arrange and pay for the medical examination that shows that he or she is in good health. A report of the medical examination, signed and dated by a licensed physician, must be furnished to OPM on such forms and at such time and place as OPM may prescribe through the Federal Personnel Manual system or other issuances.

(e) An insurable interest annuity may be elected to provide a survivor benefit only for a person who has an insurable interest in the retiring employee or Member.

(1) An insurable interest is presumed to exist with—

(i) The current spouse;

(ii) A blood or adopted relative closer than first cousins;

(iii) A former spouse;

(iv) A person to whom the employee or Member is engaged to be married;

(v) A person with whom the employee or Member is living in a relationship which would constitute a common-law marriage in jurisdictions recognizing common-law marriages.

(2) When an insurable interest in not presumed, the employee or Member must submit affidavits from one or more persons with personal knowledge of the named beneficiary's insurable interest in the employee or Member. The affidavits must set forth the relationship, if any, between the named beneficiary and the employee or Member, the extent to which the named beneficiary is dependent on the employee or Member, and the reasons why the named beneficiary might reasonably expect to derive financial benefit from the continued life of the employee or Member.

(3) The employee or Member may be required to submit documentary evidence to establish the named beneficiary's date of birth.

(f) After receipt of all required evidence to support an election of an insurable interest annuity, OPM will notify the employee or Member of initial monthly annuity rates with and without the election of an insurable interest annuity and the initial rate payable to the named beneficiary. No election of an insurable interest annuity is effective unless the employee or Member confirms the election in writing, dies, or becomes incompetent no later than 60 days after the date of the notice described in this paragraph.

(g) (1) When an employee or Member elects both an insurable interest annuity and a fully reduced annuity or a partially reduced annuity to provide a current spouse annuity and/or a former spouse annuity or annuities, each reduction is computed based on the self-only annuity computation. The combined reduction may exceed the maximum 40 percent reduction in the retired employee's or Member's annuity permitted under section 8339(k)(1) of title 5, United States Code, applicable to insurable interest annuities.

(2) The rate of annuity paid to the beneficiary of an insurable interest election, when the employee or Member also elected a fully reduced annuity or a partially reduced annuity, equals 55 (or 50 percent if based on a separation before October 11, 1962) percent of the rate of annuity after the insurable interest reduction. The additional reduction to provide a current spouse annuity or a former spouse annuity is not considered in determining the rate of annuity paid to the beneficiary of the insurable interest election.

(h)(1) Except as provided in §831.612(d), if a retiree who is receiving a fully reduced annuity or a partially reduced annuity to provide a former spouse annuity has also elected an insurable interest annuity to benefit a current spouse and if the eligible former spouse remarries before age 55, dies, or loses eligibility under the terms of the court order, and no other former spouse is entitled to a survivor annuity based on an election made in accordance with §831.632 or a qualifying court order, the retiree may elect, within 2 years after the former spouse's remarriage, death, or loss of eligibility under the terms of the court order, to convert the insurable interest annuity to a fully reduced annuity to provide a current spouse annuity, effective on the first day of the month following the event causing the former spouse to lose eligibility.

(2) An election under paragraph (h)(1) of this section cancels any consent not to receive a current spouse annuity required by paragraph (c) of this section for the current spouse to be eligible for an annuity under this section.

(3) When a former spouse receiving an annuity under section 8341(h) of title 5, United States Code, loses eligibility to that annuity, a beneficiary of an insurable interest annuity who was the current spouse at both the time of the retiree's retirement and death may, within 2 years after the former spouse's death, remarriage, or loss of eligibility under the terms of the court order, elect to receive a current spouse annuity instead of the annuity he or she had been receiving. The election is effective on the first day of the month following the event causing the former spouse to lose eligibility.

(i) Upon the death of the current spouse, a retiree whose annuity is reduced to provide both a current spouse annuity and an insurable interest benefit for a former spouse is not permitted to convert the insurable interest annuity to a reduced annuity to provide a former spouse annuity.

(j) An employee or Member may name only one natural person as the named beneficiary of an insurable interest annuity. OPM will not accept the designation of contingent beneficiaries and such a designation is void.

(k)(1) An election under this section is prospectively voided by an election of a reduced annuity to provide a current spouse annuity under §831.631 that would benefit the same person.

(2)(i) If the spouse is not the beneficiary of the election under this section, a retiree may prospectively void an election under this section at the time the retiree elects a reduced annuity to provide a current spouse annuity under §831.631.

(ii) A retiree's election to void an election under paragraph (k)(2)(i) of this section must be filed at the same time as the election under §831.631.

(3) An annuity reduction under this section terminates on the first day of the month after the beneficiary of the insurable interest annuity dies.

[50 FR 20070, May 13, 1985, as amended at 51 FR 31931, Sept. 8, 1986; 52 FR 10216, Mar. 31, 1987; 55 FR 9100, Mar. 12, 1990; 58 FR 52880, Oct. 13, 1993. Redesignated at 58 FR 52882, Oct. 13, 1993]

§831.614 Election of a self-only annuity or partially reduced annuity by married employees and Members.

(a) A married employee may not elect a self-only annuity or a partially reduced annuity to provide a current spouse annuity without the consent of the current spouse or a waiver of spousal consent by OPM in accordance with §831.618.

(b) Evidence of spousal consent or a request for waiver of spousal consent must be filed on a form prescribed by OPM.

(c) The form will require that a notary public or other official authorized to administer oaths certify that the current spouse presented identification, gave consent, signed or marked