Office of Personnel Management § 842.605

(e) Except as provided in § 842.614, the amount of the reduction to provide a former spouse annuity equals—

(1) Ten percent of the employee’s or Member’s annuity if the employee or Member elects a fully reduced annuity; or

(2) Five percent of the employee’s or Member’s annuity if the employee or Member elects a one-half reduced annuity.

§ 842.605 Election of insurable interest rate.

(a) At the time of retirement, an employee or Member in good health and who is applying for a non-disability annuity may elect an insurable interest rate. An election under this section does not exempt a married employee or Member from the provisions of § 842.603(a).

(b) An insurable interest rate may be elected by an employee or Member electing a fully reduced annuity or a one-half 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 § 842.603(a).

(2) A consent (to an election not to provide a current spouse annuity in accordance with § 842.603(a)(1)) required by paragraph (c)(1) of this section to be eligible to be the beneficiary of an insurable interest rate is cancelled if—

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

(ii) The retiree changes his or her election to receive an insurable interest rate under § 842.608; or

(iii) The retiree elects a fully reduced annuity to provide a current spouse annuity under § 842.610.

(3) An election of a one-half reduced annuity under § 842.610(b) to provide a current spouse annuity for a current spouse who is the beneficiary of an insurable interest rate is void unless the spouse consents to the election.

(4) If a retiree who had elected an insurable interest rate to benefit a current spouse elects a fully reduced annuity to provide a current spouse annuity (or with the consent of the spouse, a one-half reduced annuity to provide a current spouse annuity) under § 842.610(b), the election of the insurable interest rate is cancelled.

(5)(i) A retiring employee or Member may not elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity and an insurable interest rate 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 rate 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 rate will satisfy the requirements of the court order as long as the insurable interest rate 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 rate is void.

(iii) An election under § 842.611 of a fully reduced annuity or a one-half reduced annuity to benefit a former spouse by a retiree who elected and continues to receive an insurable interest rate to benefit that former spouse is void.

(d) To elect an insurable interest rate, an employee or Member must indicate the intention to make the election on the application for retirement and must submit a certificate of good health in a form prescribed by OPM.

(e) An insurable interest rate 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) The same-sex domestic partner;

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

(iv) A former spouse;

(v) A former same-sex domestic partner;

(vi) A person to whom the employee or Member is engaged to be married, or
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a person with whom the employee or Member has agreed to enter into a same-sex domestic partnership;  
(vii) A person with whom the employee or Member is living in a relationship that would constitute a common-law marriage in jurisdictions recognizing common-law marriages;  
(2) For purposes of this section, the term “same-sex domestic partner” means a person in a domestic partnership with an employee or annuitant of the same sex, and the term “domestic partnership” is defined as a committed relationship between two adults, of the same sex, in which the partners—  
(i) Are each other’s sole domestic partner and intend to remain so indefinitely;  
(ii) Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle);  
(iii) Are at least 18 years of age and mentally competent to consent to contract;  
(iv) Share responsibility for a significant measure of each other’s financial obligations;  
(v) Are not married or joined in a civil union to anyone else;  
(vi) Are not the domestic partner of anyone else;  
(vii) Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the U.S. jurisdiction in which the domestic partnership was formed; and  
(viii) Are willing to certify, if required by the agency, that they understand that willful falsification of any documentation required to establish that an individual is in a domestic partnership may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification, as well as constitute a criminal violation under 18 U.S.C. 1001, and that the method for securing such certification, if required, shall be determined by the agency.  
(3) When an insurable interest is not presumed, the employee or Member must submit affidavits from one or more persons with personal knowledge of the named beneficiary’s having an 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.  
(4) The employee or Member may be required to submit documentary evidence to establish the named beneficiary’s date of birth.  
(f) OPM will notify the employee or Member of initial monthly annuity rates with and without the election of an insurable interest rate and the initial rate payable to the named beneficiary. No election of an insurable interest rate is effective unless the employee or Member confirms the election in writing or dies 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 rate, and a fully reduced annuity or a one-half reduced annuity, the combined reduction may exceed the maximum 40 percent reduction in the retired employee’s or Member’s annuity permitted under section 8420 of title 5, United States Code, applicable to insurable interest annuities.  
(2) The additional reduction to provide a current spouse annuity or a former spouse annuity is not considered in determining the rate of annuity payable to a beneficiary of an insurable interest election.  
(h)(1) Except as provided in §842.604(d), if a retiree who is receiving a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity has also elected an insurable interest rate 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 §842.611 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 rate 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 eligi-
bility.

(2) An election under paragraph (b)(1)
of this section cancels any consent not
to receive a current spouse annuity re-
quired 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 8445 of title 5,
United States Code, loses eligibility to
that annuity, a beneficiary of an insur-
able interest rate 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 in-
stead 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 eligi-
bility.

(i) Upon the death of the current
spouse, a retiree whose annuity is re-
duced to provide both a current spouse annuity and an insurable interest ben-
efit for a former spouse is not per-
mitted to convert the insurable inter-
est rate to provide a former spouse annuity.

(j) An employee or Member may
name only one natural person as the
named beneficiary of an insurable in-
terest rate. 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 fully reduced annuity to provide a
current spouse annuity under §842.612
that would benefit the same person.

(2)(i) If the current 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 an-
nuity under §842.612.

(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 §842.612.

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

[52 FR 2061, Jan. 16, 1987, as amended at 57
FR 54679, Nov. 20, 1992; 77 FR 42912, July 20,
2012]

§ 842.607 Waiver of spousal consent re-
quirement.

(a) The spousal consent requirement
will be waived upon a showing that the
spouse’s whereabouts cannot be deter-
mined. A request for waiver on this
basis must be accompanied by—