

§ 1645.6

will be residual net earnings attributable to the truncation described in paragraph (a) of this section which will not be included in the incremental change in the share price of the fund for that business day. The residual net earnings that are not included in the incremental share price for the fund may be added to the earnings for that fund on the next business day.

[70 FR 32214, June 1, 2005]

§ 1645.6 Basis for calculation of share prices.

The total fund basis for a TSP Fund will be the sum of the number of shares in all individual accounts from all sources of contributions in that fund as of the opening of business on each business day.

[70 FR 32215, June 1, 2005]

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

Subpart A—General

Sec.

- 1650.1 Definitions.
- 1650.2 Eligibility and general rules for a TSP withdrawal.
- 1650.3 Frozen accounts.
- 1650.4 Certification of truthfulness.
- 1650.5 Returned funds
- 1650.6 Deceased participant.

Subpart B—Post-Employment Withdrawals

- 1650.11 Withdrawal elections.
- 1650.12 Single payment.
- 1650.13 Installment payments.
- 1650.14 Annuities.
- 1650.16 Required minimum distributions.
- 1650.17 Changes and cancellation of a withdrawal request.

Subpart C—Procedures for Post-Employment Withdrawals

- 1650.21 Information provided by employing agency or service.
- 1650.22 Accounts of \$200 or more.
- 1650.23 Accounts of less than \$200.
- 1650.24 How to obtain a post-employment withdrawal.
- 1650.25 Transfers from the TSP.

Subpart D—In-Service Withdrawals

- 1650.31 Age-based withdrawals.
- 1650.32 Financial hardship withdrawals.

5 CFR Ch. VI (1–1–21 Edition)

1650.33 Contributing to the TSP after an in-service withdrawal.

1650.34 Uniqueness of loans and withdrawals.

Subpart E—Procedures for In-Service Withdrawals

1650.41 How to obtain an age-based withdrawal.

1650.42 How to obtain a financial hardship withdrawal.

1650.43 [Reserved]

Subpart F [Reserved]

Subpart G—Spousal Rights

1650.61 Spousal rights applicable to post-employment withdrawals.

1650.62 Spousal rights applicable to in-service withdrawals.

1650.63 Executive Director's exception to the spousal notification requirement.

1650.64 Executive Director's exception to the spousal consent requirement.

AUTHORITY: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b)(5) and 8474(c)(1).

SOURCE: 68 FR 35503, June 13, 2003, unless otherwise noted.

Subpart A—General

§ 1650.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

In-service withdrawal means an age-based or financial hardship withdrawal from the TSP that may be available to a participant who has not yet separated from Government service.

Post-employment withdrawal means a withdrawal from the TSP that is available to a participant who is separated from Government service.

Required beginning date means the required beginning date as defined in Internal Revenue Code section 401(a)(9) and the regulations and guidance promulgated thereunder.

Required minimum distribution means the amount required to be distributed to a participant beginning on the required beginning date and every year

Federal Retirement Thrift Investment Board

§ 1650.3

thereafter pursuant to Internal Revenue Code section 401(a)(9) and the regulations promulgated thereunder, as applicable.

[68 FR 35503, June 13, 2003, as amended at 70 FR 32215, June 1, 2005; 84 FR 46420, Sept. 4, 2019; 85 FR 40570, July 7, 2020]

§ 1650.2 Eligibility and general rules for a TSP withdrawal.

(a) A participant who is separated from Government service can elect to withdraw all or a portion of his or her account balance by one or a combination of the withdrawal methods described in subpart B of this part.

(b) A post-employment withdrawal will not be paid unless TSP records indicate that the participant is separated from Government service. The TSP will, when possible, cancel a pending post-employment withdrawal election upon receiving information from an employing agency that a participant is no longer separated.

(c) A participant cannot make a post-employment withdrawal until any outstanding TSP loan has either been repaid in full or declared to be a taxable distribution. An outstanding TSP loan will not affect a participant's eligibility for an in-service withdrawal.

(d) A separated participant who is reemployed in a position in which he or she is eligible to participate in the TSP is subject to the following rules:

(1) A participant who is reemployed in a TSP-eligible position on or before the 31st full calendar day after separation is not eligible to withdraw his or her TSP account in accordance with subpart B of this part.

(2) A participant who is reemployed in a TSP-eligible position more than 31 full calendar days after separation and who made a post-employment withdrawal while separated may not withdraw any remaining portion of his or her account balance in accordance with subpart B of this part until he or she again separates from Government service.

(e) A participant who has not separated from Government service may be eligible to withdraw all or a portion of his or her account in accordance with subparts D and E of this part.

(f) A participant can elect to have any portion of a single or installment

payment that is not transferred to an eligible employer plan, traditional IRA, or Roth IRA deposited directly, by electronic funds transfer (EFT), into a savings or checking account at a financial institution in the United States.

(g) If a participant has a civilian TSP account and a uniformed services TSP account, the rules in this part apply to each account separately. For example, the participant is eligible to make four age-based in-service withdrawals from the civilian account and four age-based in-service withdrawals from the uniformed services account per calendar year. A separate withdrawal request must be made for each account.

(h) A participant may elect to have his or her withdrawal distributed from the participant's traditional balance only, Roth balance only, or pro rata from the participant's traditional and Roth balances. Any distribution from the traditional balance will be prorated between the tax-deferred balance and any tax-exempt balance. Any distribution from the Roth balance will be prorated between contributions in the Roth balance and earnings in the Roth balance. In addition, all withdrawals will be distributed pro rata from all TSP Funds in which the participant's account is invested. All prorated amounts will be based on the balances in each TSP Fund or source of contributions on the day the withdrawal is processed.

[68 FR 35503, June 13, 2003, as amended at 77 FR 26426, May 4, 2012; 84 FR 46420, Sept. 4, 2019]

§ 1650.3 Frozen accounts.

(a) All withdrawals from the TSP are subject to the rules relating to spousal rights (found in subpart G of this part) and to domestic relations orders, alimony and child support legal process, and child abuse enforcement orders (found in 5 CFR part 1653).

(b) A participant may not withdraw any portion of his or her account balance if the account is frozen due to a pending retirement benefits court order, an alimony or child support enforcement order, or a child abuse enforcement order, or because a freeze has been placed on the account by the TSP for another reason.

§ 1650.4

5 CFR Ch. VI (1–1–21 Edition)

§ 1650.4 Certification of truthfulness.

By signing a TSP withdrawal form, electronically or on paper, the participant certifies, under penalty of perjury, that all information provided to the TSP during the withdrawal process is true and complete, including statements concerning the participant's marital status and, where applicable, the spouse's address at the time the application is filed or the current spouse's consent to the withdrawal.

[70 FR 32215, June 1, 2005]

§ 1650.5 Returned funds.

If a withdrawal is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 60 days, the TSP will forfeit the returned funds to the Plan. The participant can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

§ 1650.6 Deceased participant.

(a) The TSP will cancel a pending withdrawal request if it processes a written notice that a participant is deceased. The TSP will also cancel an annuity purchase made on or after the participant's date of death but before annuity payments have begun, and the annuity vendor will return the funds to the TSP.

(b) If the TSP processes a withdrawal request before being notified that a participant is deceased, the funds cannot be returned to the TSP.

[70 FR 32215, June 1, 2005]

Subpart B—Post-Employment Withdrawals

§ 1650.11 Withdrawal elections.

(a) Subject to the restrictions in this subpart, participants may elect to withdraw all or a portion of their TSP accounts in a single payment, a series of installment payments, a life annuity, or any combination of these options.

(b) If a participant's account balance is less than \$5.00 when he or she separates from Government service, the balance will automatically be forfeited to the TSP. The participant can re-

claim the money by writing to the TSP record keeper and requesting the amount that was forfeited; however, TSP investment earnings will not be credited to the account after the date of the forfeiture.

(c) Provided that the participant has not submitted a post-employment withdrawal election prior to the date the automatic payment is processed, if a participant's vested account balance is less than \$200 when he or she separates from Government service, the TSP will automatically pay the balance in a single payment to the participant at his or her TSP address of record. The participant will not be eligible for any other payment option or be allowed to remain in the TSP.

(d) Only one post-employment withdrawal election per account will be processed in any 30-calendar-day period.

[68 FR 35503, June 13, 2003, as amended at 70 FR 32215, June 1, 2005; 77 FR 26426, May 4, 2012; 84 FR 46420, Sept. 4, 2019]

§ 1650.12 Single payment.

Provided that, in the case of a partial withdrawal, the amount elected is not less than \$1,000, a participant can elect to withdraw all or a portion of his or her account balance in a single payment.

[84 FR 46420, Sept. 4, 2019]

§ 1650.13 Installment payments.

(a) A participant can elect to withdraw all or a portion of the account balance in a series of substantially equal installment payments, to be paid on a monthly, quarterly, or annual basis in one of the following manners:

(1) *A specific dollar amount.* The amount elected must be at least \$25 per installment; if the amount elected is less than \$25 per installment, the request will be rejected. Payments will be made in the amount requested each installment period.

(2) *An installment payment amount calculated based on life expectancy.* Payments based on life expectancy are determined using the factors set forth in the Internal Revenue Service life expectancy tables codified at 26 CFR 1.401(a)(9)–9, Q&A 1 and 2. The installment payment amount is calculated by

dividing the account balance by the factor from the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments are to begin. This amount is then divided by the number of installment payments to be made per calendar year to yield the installment payment amount. In subsequent years, the installment payment amount is recalculated on the first installment payment date of the year by dividing the prior December 31 account balance by the factor in the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments will be made. There is no minimum amount for an installment payment calculated based on this method.

(b) A participant receiving installment payments calculated based upon life expectancy can make one election, at any time, to change to a fixed dollar installment payment. A participant can change the amount of his or her fixed payments at any time as described in §1650.17(c). A participant who is receiving installment payments based on a fixed dollar amount, however, cannot elect to change to an amount calculated based on life expectancy.

(c) If a participant elects to receive installments pro rata from his or her traditional and Roth balances, installment payments will be made until the participant's entire account balance is expended, unless the participant elects to change or stop installment payments as described in §1650.17(c). If a participant elects to receive installment payments from his or her traditional balance only or Roth balance only, installment payments will automatically continue from the non-elected balance once the elected balance has been expended, unless the participant elects to change or stop installment payments as described in §1650.17(c).

(d) A participant receiving installment payments, regardless of the calculation method, can elect at any time to receive the remainder or part of his or her account balance in a single payment.

(e) A participant may only have one installment payment series in place at a time.

(f) A participant receiving installment payments may change the investment of his or her account balance among the TSP investment funds as provided in 5 CFR part 1601.

(g) Upon receiving information from an employing agency that a participant receiving installment payments is no longer separated, the TSP will cancel all pending and future installment payments.

[84 FR 46420, Sept. 4, 2019, as amended at 85 FR 57666, Sept. 16, 2020]

§ 1650.14 Annuities.

(a) A participant electing a post-employment withdrawal can use all or a portion of his or her total account balance, traditional balance only, or Roth balance only to purchase a life annuity.

(b) If a participant has a traditional balance and a Roth balance and elects to use all or a portion of his or her total account balance to purchase a life annuity, the TSP must purchase two separate annuity contracts for the participant: One from the portion of the withdrawal distributed from his or her traditional balance and one from the portion of the withdrawal distributed from his or her Roth balance.

(c) A participant cannot elect to purchase an annuity contract with less than \$3,500.

(d) Unless an amount must be paid directly to the participant to satisfy any applicable minimum distribution requirement of the Internal Revenue Code, the TSP will purchase the annuity contract(s) from the TSP's annuity vendor using the participant's entire account balance or the portion specified. In the event that a minimum distribution is required by section 401(a)(9) of the Internal Revenue Code before the date of the first annuity payment, the TSP will compute that amount prior to purchasing the annuity contract(s), and pay it directly to the participant.

(e) An annuity will provide a payment for life to the participant and, if applicable, to the participant's survivor, in accordance with the type of annuity chosen. The TSP annuity vendor will make the first annuity payment approximately 30 days after the TSP purchases the annuity.

(f) The amount of an annuity payment will depend on the type of annuity chosen, the participant's age when the annuity is purchased (and the age of the joint annuitant, if applicable), the amount used to purchase the annuity, and the interest rate available when the annuity is purchased.

(g) Participants may choose among the following types of annuities:

(1) *A single life annuity with level payments.* This annuity provides monthly payments to the participant as long as the participant lives. The amount of the monthly payment remains constant.

(2) *A joint life annuity for the participant and spouse with level payments.* This annuity provides monthly payments to the participant, as long as both the participant and spouse are alive, and monthly payments to the survivor, as long as the survivor is alive. The amount of the monthly payment remains constant, although the amount received will depend on the type of survivor benefit elected.

(3) *A joint life annuity for the participant and another person with level payments.* This annuity provides monthly payments to the participant as long as both the participant and the joint annuitant are alive, and monthly payments to the survivor as long as the survivor is alive. The amount of the monthly payment remains constant. The joint annuitant must be either a former spouse or a person who has an insurable interest in the participant.

(i) A person has an "insurable interest in the participant" if the person is financially dependent on the participant and could reasonably expect to derive financial benefit from the participant's continued life.

(ii) A relative (either blood or adopted, but not by marriage) who is closer than a first cousin is presumed to have an insurable interest in the participant.

(iii) A participant can establish that a person not described in paragraph (d)(3)(ii) of this section has an insurable interest in him or her by submitting, with the annuity request, an affidavit from a person other than the participant or the joint annuitant that demonstrates that the designated joint annuitant has an insurable interest in

the participant (as described in paragraph (d)(3)(i) of this section).

(4) *Either a single life or joint (with spouse) life annuity with increasing payments.* This annuity provides monthly payments to the participant only, or to the participant and spouse, as applicable. The monthly payments are increased once each year on the anniversary of the first payment by a fixed rate of 2 percent. If the participant chooses a joint life annuity, the annual 2 percent increase also applies to benefits received by the survivor.

(h) For each withdrawal election in which the participant elects to purchase an annuity with some or all of the amount withdrawn, if the TSP must purchase two annuity contracts, the type of annuity, the annuity features, and the joint annuitant (if applicable) selected by the participant will apply to both annuities purchased. For each withdrawal election, a participant cannot elect more than one type of annuity by which to receive a withdrawal, or portion thereof, from any one account.

(i) A participant who chooses a joint life annuity (with a spouse, a former spouse, or a person with an insurable interest) must choose either a 50 percent or a 100 percent survivor benefit. The survivor benefit applies when either the participant or the joint annuitant dies.

(1) A 50 percent survivor benefit provides a monthly payment to the survivor which is 50 percent of the amount of the payment that is made when both the participant and the joint annuitant are alive.

(2) A 100 percent survivor benefit provides a monthly payment to the survivor, which is equal to the amount of the payment that is made when both the participant and the joint annuitant are alive.

(3) Either the 50 percent or the 100 percent survivor benefit may be combined with any joint life annuity option. However, the 100 percent survivor benefit can only be combined with a joint annuity with a person other than the spouse (or a former spouse, if required by a retirement benefits court order) if the joint annuitant is not more than 10 years younger than the participant.

(j) The following features are mutually exclusive, but can be combined with certain types of annuities, as indicated:

(1) *Cash refund.* This feature provides that, if the participant (and joint annuitant, where applicable) dies before an amount equal to the balance used to purchase the annuity has been paid out, the difference between the balance used to purchase the annuity and the sum of monthly payments already made will be paid to the beneficiary(ies) designated by the participant (or by the joint annuitant, where applicable). This feature can be combined with any type of annuity.

(2) *Ten-year certain.* This feature provides that, if the participant dies before annuity payments have been made for 10 years (120 payments), monthly payments will be made to the beneficiary(ies) until 120 payments have been made. This feature can be combined with any single life annuity, but cannot be combined with a joint life annuity.

(k) Once an annuity has been purchased, the type of annuity, the annuity features, and the identity of the joint annuitant cannot be changed, and the annuity cannot be terminated.

[68 FR 35503, June 13, 2003, as amended at 77 FR 26426, May 4, 2012; 84 FR 46421, Sept. 4, 2019; 85 FR 12432, Mar. 3, 2020]

§ 1650.16 Required minimum distributions.

(a) A separated participant must receive required minimum distributions from his or her account commencing no later than the required beginning date and, for each year thereafter, no later than December 31.

(b) A separated participant may elect to withdraw from his or her account or to begin receiving payments before the required beginning date, but is not required to do so.

(c) In the event that a separated participant does not withdraw from his or her account an amount sufficient to satisfy his or her required minimum distribution for the year, the TSP will automatically distribute the necessary amount on or before the applicable date described in paragraph (a) of this section.

(d) The TSP will disburse required minimum distributions described in paragraph (c) of this section pro rata from the participant's traditional balance and the participant's Roth balance.

(e) The rules set forth in paragraphs (a) through (d) of this section shall apply to a separated participant who reclaims an account balance that was declared abandoned.

[84 FR 46421, Sept. 4, 2019]

§ 1650.17 Changes and cancellation of a withdrawal request.

(a) *Before processing.* A pending withdrawal request can be cancelled if the cancellation is received and can be processed before the TSP processes the withdrawal request. However, the TSP processes withdrawal requests each business day and those that are entered into the record keeping system by 12:00 noon eastern time will ordinarily be processed that night; those entered after 12:00 noon eastern time will be processed the next business day. Consequently, a cancellation request must be received and entered into the system before the cut-off for the day the withdrawal request is submitted for processing in order to be effective to cancel the withdrawal.

(b) *After processing.* A withdrawal election cannot be changed or cancelled after the withdrawal request has been processed. Consequently, funds disbursed cannot be returned to the TSP record keeper.

(c) *Change in installment payments.* If a participant is receiving a series of installment payments, with appropriate supporting documentation as required by the TSP record keeper, the participant can change at any time: The payment amount or frequency (including stopping installment payments), the address to which the payments are mailed, the amount of federal tax withholding, whether or not a payment will be transferred (if permitted) and the portion to be transferred, the method by which direct payments to the participant are being sent (EFT or check), the identity of the financial institution to which payments are transferred or

§ 1650.21

sent by EFT, or the identity of the EFT account.

[68 FR 35503, June 13, 2003, as amended at 70 FR 32215, June 1, 2005; 84 FR 46421, Sept. 4, 2019]

Subpart C—Procedures for Post-Employment Withdrawals

§ 1650.21 Information provided by employing agency or service.

When a TSP participant separates from Government service, his or her employing agency or service must report the separation and the date of separation to the TSP record keeper. Until the TSP record keeper receives this information from the employing agency or service, it will not pay a post-employment withdrawal.

[84 FR 46421, Sept. 4, 2019]

§ 1650.22 Accounts of \$200 or more.

A participant whose account balance is \$200 or more must submit a properly completed withdrawal election to request a post-employment withdrawal of his or her account balance.

§ 1650.23 Accounts of less than \$200.

Upon receiving information from the employing agency that a participant has been separated for more than 31 days and that any outstanding loans have been closed, provided the participant has not made a withdrawal election before the distribution is processed, if the account balance is \$5.00 or more but less than \$200, the TSP record keeper will automatically distribute the entire amount of his or her account balance. The TSP will not pay this amount by EFT. The participant may not elect to leave this amount in the TSP, nor will the TSP transfer any automatically distributed amount to an eligible employer plan, traditional IRA, or Roth IRA. However, the participant may elect to roll over this payment into an eligible employer plan, traditional IRA, or Roth IRA to the extent the roll over is permitted by the Internal Revenue Code.

[84 FR 46422, Sept. 4, 2019]

5 CFR Ch. VI (1–1–21 Edition)

§ 1650.24 How to obtain a post-employment withdrawal.

To request a post-employment withdrawal, a participant must use the TSP website to initiate a request or submit to the TSP record keeper a properly completed paper TSP post-employment withdrawal request form.

[84 FR 46422, Sept. 4, 2019]

§ 1650.25 Transfers from the TSP.

(a) The TSP will, at the participant's election, transfer all or any portion of an eligible rollover distribution (as defined by section 402(c)(4) of the Internal Revenue Code) directly to an eligible employer plan or an IRA.

(b) If a withdrawal includes a payment from a participant's traditional balance and a payment from the participant's Roth balance, the TSP will, at the participant's election, transfer all or a portion of the payment from the traditional balance to a single plan or IRA and all or a portion of the payment from the Roth balance to another plan or IRA. The TSP will also allow the traditional and Roth portions of a payment to be transferred to the same plan or IRA but, for each type of balance, the election must be made separately by the participant and each type of balance will be transferred separately. However, the TSP will not transfer portions of the participant's traditional balance to two different institutions or portions of the participant's Roth balance to two different institutions.

(c) If a withdrawal includes an amount from a participant's Roth balance and the participant elects to transfer that amount to another eligible employer plan or Roth IRA, the TSP will inform the plan administrator or trustee of the start date of the participant's Roth 5 year non-exclusion period or the participant's Roth initiation date, and the portion of the distribution that represents Roth contributions. If a withdrawal includes an amount from a participant's Roth balance and the participant does not elect to transfer the amount, the TSP will inform the participant of the portion of the distribution that represents Roth contributions.

(d) Tax-exempt contributions can be transferred only if the IRA or plan accepts such funds.

(e) The TSP will transfer distributions only to the extent that the transfer is permitted by the Internal Revenue Code.

[77 FR 26427, May 4, 2012, as amended at 84 FR 46422, Sept. 4, 2019]

Subpart D—In-Service Withdrawals

§ 1650.31 Age-based withdrawals.

(a) A participant who has reached age 59½ and who has not separated from Government service is eligible to withdraw all or a portion of his or her vested TSP account balance in a single payment. Unless the withdrawal request is for the entire vested account balance, the entire vested traditional balance, or the entire vested Roth balance, the amount of an age-based withdrawal request must be at least \$1,000.

(b) An age-based withdrawal is an eligible rollover distribution, so a participant may request that the TSP transfer all or a portion of the withdrawal to a traditional IRA, an eligible employer plan, or a Roth IRA in accordance with § 1650.25.

(c) A participant is permitted four age-based withdrawals per calendar year for an account. Only one age-based withdrawal election per account will be processed in any 30-calendar-day-period.

[68 FR 35503, June 13, 2003, as amended at 75 FR 24785, May 6, 2010; 77 FR 26427, May 4, 2012; 84 FR 46422, Sept. 4, 2019]

§ 1650.32 Financial hardship withdrawals.

(a) A participant who has not separated from Government employment and who can certify that he or she has a financial hardship is eligible to withdraw all or a portion of his or her own contributions to the TSP (and their attributable earnings) in a single payment to meet certain specified financial obligations. The amount of a financial hardship withdrawal request must be at least \$1,000.

(b) To be eligible for a financial hardship withdrawal, a participant must have a financial need that results from

at least one of the following five conditions:

(1) The participant's monthly cash flow is negative (*i.e.*, the participant's income is less than his or her monthly expenses on a recurring basis);

(2) The participant has incurred medical expenses as a result of a medical condition, illness, or injury to the participant, the participant's spouse, or the participant's dependents. Generally, eligible expenses are those that would be eligible for deduction as medical expenses for Federal income tax purposes. Eligible medical expenses include the cost of household improvements required as a result of a medical condition, illness or injury. Household improvements are structural improvements to the participant's living quarters or the installation of special equipment that is necessary to accommodate the circumstances of the incapacitated person.

(3) The participant must have paid the cost of repair or replacement resulting from a personal casualty loss that would be eligible for deduction for Federal income tax purposes, but without regard to the IRS income limitations on deductibility, fair market value of the property, or number of events. Personal casualty loss includes damage, destruction, or loss of property resulting from a sudden, unexpected, or unusual event, such as an earthquake, hurricane, tornado, flood, storm, fire, or theft.

(4) The participant must have paid attorney fees and court costs associated with separation or divorce. Court-ordered payments to a spouse or former spouse and child support payments are not allowed, nor are costs of obtaining prepaid legal services or other coverage for legal services.

(5) The participant has incurred expenses and losses (including loss of income) on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by the FEMA for individual assistance with respect to the disaster.

§ 1650.33

(c) When determining financial hardship needs, a participant cannot use any expenses that are already paid or are reimbursable to the participant by insurance or otherwise.

(d) The amount of a participant's financial hardship withdrawal cannot exceed the smallest of the following:

(1) The amount requested; or

(2) The amount in the participant's account that is equal to his or her own contributions and attributable earnings.

(e) The participant must certify that he or she has a financial hardship as described on the hardship withdrawal form, and that the dollar amount of the withdrawal request does not exceed the actual amount of the financial hardship.

(f) A participant is not eligible for an in-service hardship withdrawal based solely on monthly negative cash flow (as described in paragraph (b)(1) of this section) during the time he or she has pending a petition in bankruptcy under Chapter 13 of the Bankruptcy Code (11 U.S.C. chapter 13).

[68 FR 35503, June 13, 2003, as amended at 68 FR 74451, Dec. 23, 2003; 85 FR 61805, Oct. 1, 2020]

§ 1650.33 Contributing to the TSP after an in-service withdrawal.

(a) *Age-Based In-Service Withdrawals.* A participant's TSP contribution election will not be affected by an age-based in-service withdrawal; therefore, his or her TSP contributions will continue without interruption.

(b) *Financial Hardship In-Service Withdrawals.* (1) A participant who obtains a financial hardship in-service withdrawal prior to September 15, 2019, may not contribute to the TSP until the earlier of:

(i) The end of the six-month period after the withdrawal is processed, or

(ii) September 15, 2019.

(2) Therefore, the participant's employing agency will discontinue his or her contributions (and any applicable Agency Matching Contributions) for the applicable period after the agency is notified by the TSP; in the case of a FERS or BRS participant, Agency Automatic (1%) Contributions will continue. A participant whose TSP contributions are discontinued by his or

5 CFR Ch. VI (1–1–21 Edition)

her agency after a financial hardship withdrawal can resume contributions any time after expiration of the applicable period by submitting a new TSP contribution election. Contributions will not resume automatically.

(3) A participant's TSP contribution election will not be affected by a financial hardship in-service withdrawal obtained on or after September 15, 2019; therefore, his or her TSP contributions will continue without interruption.

[84 FR 46422, Sept. 4, 2019]

§ 1650.34 Uniqueness of loans and withdrawals.

An outstanding TSP loan cannot be converted into an in-service withdrawal or vice versa. Funds distributed as an in-service withdrawal cannot be returned or repaid.

Subpart E—Procedures for In-Service Withdrawals

§ 1650.41 How to obtain an age-based withdrawal.

To request an age-based withdrawal, a participant must use the TSP website to initiate a request or submit to the TSP record keeper a properly-completed paper TSP age-based withdrawal request form.

[84 FR 46422, Sept. 4, 2019]

§ 1650.42 How to obtain a financial hardship withdrawal.

(a) To request a financial hardship withdrawal, a participant must use the TSP website to initiate a request or submit to the TSP record keeper a properly-completed paper TSP hardship withdrawal request form.

(b) There is no limit on the number of financial hardship withdrawals a participant can make; however, the TSP will not accept a financial hardship withdrawal request for a period of six months after a financial hardship disbursement is made.

[68 FR 35503, June 13, 2003, as amended at 70 FR 32215, June 1, 2005; 84 FR 46422, Sept. 4, 2019]

§ 1650.43 [Reserved]

Subpart F [Reserved]

Subpart G—Spousal Rights**§ 1650.61 Spousal rights applicable to post-employment withdrawals.**

(a) The spousal rights described in this section apply to total post-employment withdrawals when the married participant's vested TSP account balance exceeds \$3,500, to partial post-employment withdrawals without regard to the amount of the participant's account balance, and to any change in the amount or frequency of an existing installment payment series, including a change from payments calculated based on life expectancy to payments based on a fixed-dollar amount.

(b) Unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date the withdrawal request is processed by the TSP, the spouse of a CSRS participant is entitled to notice when the participant applies for a post-employment withdrawal or makes a change to the amount or frequency of an existing installment payment series. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the spouse at the most recent address provided by the participant.

(c) The spouse of a FERS or uniformed services participant has a right to a joint and survivor annuity with a 50 percent survivor benefit, level payments, and no cash refund based on the participant's entire account balance when the participant elects a total post-employment withdrawal.

(1) The participant may make a different total withdrawal election only if his or her spouse consents to that election and waives the right to this annuity.

(2) A participant's spouse must consent to any partial withdrawal election (other than an election to purchase this type of an annuity with such amount) and waive his or her right to this annuity with respect the amount withdrawn.

(3) A spouse must consent to any change in the amount or frequency of an existing installment payment series and waive his or her right to this annuity with respect to the applicable

amount. Spousal consent is not required to stop installment payments.

(4) Unless the TSP granted the participant an exception under this subpart to the spousal notification requirement within 90 days of the date the withdrawal form is processed by the TSP, to show that the spouse has consented to a different total or partial withdrawal election or installment payment change and waived the right to this annuity with respect to the applicable amount, the participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. If the TSP granted the participant an exception to the signature requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form.

(5) The spouse's consent and waiver is irrevocable for the applicable withdrawal or installment payment change once the TSP record keeper has received it.

[84 FR 46422, Sept. 4, 2019, as amended by 85 FR 21312, Apr. 17, 2020; 85 FR 59174, Sept. 21, 2020]

§ 1650.62 Spousal rights applicable to in-service withdrawals.

(a) The spousal rights described in this section apply to all in-service withdrawals and do not depend on the amount of the participant's vested account balance or the amount requested for withdrawal.

(b) Unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date on which the withdrawal request is processed by the TSP, the spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal. If the TSP granted the participant an exception to the notice requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the spouse at the most recent address provided by the participant.

(c) Unless the participant was granted an exception under this subpart to

§ 1650.63

the signature requirement within 90 days of the date the withdrawal form is processed by the TSP, before obtaining an in-service withdrawal, a participant who is covered by FERS or who is a member of the uniformed services must obtain the consent of his or her spouse and waiver of the spouse's right to a joint and survivor annuity described in § 1650.61(c) with respect to the applicable amount. To show the spouse's consent and waiver, a participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. Once a form containing the spouse's consent and waiver has been submitted to the TSP record keeper, the spouse's consent is irrevocable for that withdrawal.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004; 84 Fr 46423, Sept. 4, 2019; 85 FR 21312, Apr. 17, 2020; 85 FR 50174, Sept. 21, 2020]

§ 1650.63 Executive Director's exception to the spousal notification requirement.

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a CSRS participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for such an exception must be submitted to the TSP record keeper on the appropriate TSP paper form, accompanied by the following:

(1) A court order stating that the spouse's whereabouts cannot be determined;

(2) A police or governmental agency determination, signed by the appropriate department or division head, which states that the spouse's whereabouts cannot be determined; or

(3) Statements by the participant and two other persons, which meet the following requirements:

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, state the last time the spouse's location was known, explain why the spouse's location is not known currently, and describe the good faith efforts the participant has made to lo-

5 CFR Ch. VI (1–1–21 Edition)

cate the spouse in the 90 days before the request for an exception was received by the TSP. Examples of attempting to locate the spouse include, but are not limited to, checking with relatives and mutual friends or using telephone directories and directory assistance for the city of the spouse's last known address. Negative statements, such as, "I have not seen nor heard from him," or "I have not had contact with her," are not sufficient.

(ii) The statements from two other persons must support the participant's statement that he or she does not know the spouse's whereabouts, and substantiate the participant's description of the efforts he or she made to locate the spouse, including the dates the participant made those efforts.

(iii) All statements must be signed and dated and must include the following certification: "I understand that a false statement or willful misrepresentation is punishable under Federal law (18 U.S.C. 1001) by a fine or imprisonment or both."

(b) A withdrawal election will be processed within 90 days of an approved exception so long as the spouse named on the form is the spouse for whom the exception has been approved. The spouse's SSN must be included on the withdrawal request.

(c) The TSP, in its discretion, may require a participant to provide additional information before granting a waiver. The TSP may use any of the information provided to conduct its own search for the spouse.

[68 FR 35503, June 13, 2003, as amended at 70 FR 32215, June 1, 2005]

§ 1650.64 Executive Director's exception to the spousal consent requirement.

(a) Whenever this subpart requires the consent of a spouse of a FERS or uniformed services participant to a loan or withdrawal or a waiver of the right to a survivor annuity, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that:

(1) The spouse's whereabouts cannot be determined in accordance with the provisions of this subpart; or

Federal Retirement Thrift Investment Board

§ 1651.1

(2) Due to exceptional circumstances, requiring the spouse's signature would be inappropriate.

(i) An exception to the requirement for a spouse's signature may be granted based on exceptional circumstances only when the participant presents a court order or government agency determination that contains a finding or a recitation of exceptional circumstances regarding the spouse which would warrant an exception to the signature requirement.

(ii) Exceptional circumstances are narrowly construed, but are exemplified by a court order or government agency determination that:

(A) Indicates that the spouse and the participant have been maintaining separate residences with no financial relationship for three or more years;

(B) Indicates that the spouse abandoned the participant, but for religious or similarly compelling reasons, the parties chose not to divorce; or

(C) Expressly states that the participant may obtain a loan from his or her TSP account or withdraw his or her Thrift Savings Plan account balance notwithstanding the absence of the spouse's signature.

(b) A post-employment withdrawal election or an in-service withdrawal request processed within 90 days of an approved exception will be accepted by the TSP so long as the spouse named on the form is the spouse for whom the exception has been approved. The spouse's SSN must be included on the withdrawal request form.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004]

PART 1651—DEATH BENEFITS

Sec.

- 1651.1 Definitions.
- 1651.2 Entitlement to funds in a deceased participant's account.
- 1651.3 Designation of beneficiary.
- 1651.4 How to change or cancel a designation of beneficiary.
- 1651.5 Spouse of participant.
- 1651.6 Child or children.
- 1651.7 Parent or parents.
- 1651.8 Participant's estate.
- 1651.9 Participant's next of kin.
- 1651.10 Deceased and non-existent beneficiaries.
- 1651.11 Simultaneous death.

- 1651.12 Homicide.
- 1651.13 How to apply for a death benefit.
- 1651.14 How payment is made.
- 1651.15 Claims referred to the Board.
- 1651.16 Missing and unknown beneficiaries.
- 1651.17 Disclaimer of benefits.
- 1651.18 Payment to one bars payment to another.
- 1651.19 Beneficiary participant accounts.

AUTHORITY: 5 U.S.C. 8424(d), 8432d, 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

SOURCE: 62 FR 32429, June 13, 1997, unless otherwise noted.

§ 1651.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

Administrative finding means an evidence-based determination reached by a hearing, inquiry, investigation, or trial before an administrative agency of competent jurisdiction in any State, territory or possession of the United States.

Death benefit means the portion of a deceased participant's account that is payable under FERSA's order of precedence.

Order of precedence means the priority of entitlement to a TSP death benefit specified in 5 U.S.C. 8424(d).

Required beginning date means the required beginning date as defined in Internal Revenue Code section 401(a)(9) and the regulations and guidance promulgated thereunder.

Required minimum distribution means the amount required to be distributed to a beneficiary participant beginning on the required beginning date and every year thereafter pursuant to Internal Revenue Code section 401(a)(9) and the regulations promulgated thereunder, as applicable.

TIN means a taxpayer identification number. A TIN may be a Social Security number (SSN), an employer identification number (EIN), or an individual taxpayer identification number (ITIN).

[68 FR 35509, June 13, 2003, as amended at 74 FR 63062, Dec. 2, 2009; 78 FR 57784, Sept. 20, 2013; 84 FR 46423, Sept. 4, 2019; 85 FR 40571, July 7, 2020]