

Federal Retirement Thrift Investment Board

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(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

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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]

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§ 1651.2 Entitlement to funds in a deceased participant's account.

(a) *Death benefits.* Except as provided in paragraph (b) of this section, the account balance of a deceased participant will be paid as a death benefit to the individual or individuals surviving the participant, in the following order of precedence:

(1) To the beneficiary or beneficiaries designated by the participant on the TSP designation of beneficiary form that has been properly completed and filed in accordance with § 1651.3;

(2) If there is no designated beneficiary, to the spouse of the participant in accordance with § 1651.5;

(3) If there are no beneficiaries or persons as described in paragraphs (a)(1) and (a)(2) of this section, to the child or children of the participant and descendants of deceased children by representation in accordance with § 1651.6;

(4) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(3) of this section, to the parents of the participant in equal shares or entirely to the surviving parent in accordance with § 1651.7;

(5) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(4) of this section, to the duly appointed executor or administrator of the estate of the participant in accordance with § 1651.8; or

(6) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(5) of this section, to the next of kin of the participant who is or are entitled under the laws of the state of the participant's domicile on the date of the participant's death in accordance with § 1651.9.

(b) *TSP withdrawals.* If the TSP processes a notice that a participant has died, it will cancel any pending request by the participant to withdraw his or her account. 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. The funds designated by the participant for the withdrawal will be paid as a death benefit in accordance with paragraph (a) of this section, unless the participant elected to withdraw his or her account in the

form of an annuity, in which case the funds designated for the purchase of the annuity will be paid as described below:

(1) If the participant requested a single life annuity with no cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit in accordance with paragraph (a) of this section.

(2) If the participant requested a single life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP withdrawal request form, or as a death benefit in accordance with paragraph (a) of this section if no beneficiary designated on the withdrawal request survives the participant.

(3) If the participant requested a joint life annuity without additional features, the TSP will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit in accordance with paragraph (a) of this section if the joint life annuitant does not survive the participant.

(4) If the participant requested a joint life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP withdrawal request form if the joint life annuitant does not survive the participant, or as a death benefit in accordance with paragraph (a) of this section if neither the joint life annuitant nor any designated beneficiary survives the participant.

(5) If a participant dies after annuity payments have begun, the annuity vendor will make or stop the payments in accordance with the annuity method selected.

(c) *TSP loans.* If the TSP processes a notice that a participant has died, any pending loan disbursement will be cancelled and the funds designated for the loan will be distributed as a death benefit in accordance with paragraph (a) of

this section. If a TSP loan has been disbursed, but the check has not been negotiated (or an electronic funds transfer (EFT) has been returned), the loan proceeds will be used to pay off the loan. If the loan check has been negotiated (or the EFT has been processed), the funds cannot be returned to the TSP and the TSP will declare the loan balance as a taxable distribution in accordance with 5 CFR 1655.15.

(d) *Investment of a TSP account upon notice of death.* If a participant dies with any portion of his or her TSP account in a TSP Fund other than the G Fund, the TSP will transfer the entire account into the G Fund after it processes a notice that the participant has died, or a death code from the participant's employing agency reporting the participant's death. The account will accrue earnings at the G Fund rate in accordance with 5 CFR part 1645 until it is paid out or a beneficiary participant account is established under this part.

[68 FR 35509, June 13, 2003, as amended at 70 FR 32215, June 1, 2005; 80 FR 52174, Aug. 28, 2015]

§ 1651.3 Designation of beneficiary.

(a) *Filing requirements.* To designate a beneficiary of a TSP account, a participant must complete and file a TSP designation of beneficiary form with the TSP record keeper. A participant may designate more beneficiaries than the TSP form accommodates by attaching additional pages to the TSP designation of beneficiary form in accordance with the instructions on the form. A valid TSP designation of beneficiary remains in effect until it is properly canceled or changed as described in § 1651.4.

(b) *Eligible beneficiaries.* Any individual, firm, corporation, or legal entity, including the U.S. Government, may be designated as a beneficiary. Any number of beneficiaries can be named to share the death benefit. A beneficiary may be designated without the knowledge or consent of that beneficiary or the knowledge or consent of the participant's spouse. A participant may designate a custodian under the Uniform Transfers to Minors Act provided that the custodianship is established under the laws of the District of

Columbia and that the participant designates the custodianship using the Agency's designation of custodian form.

(c) *Validity requirements.* To be valid and accepted by the TSP record keeper, a TSP designation of beneficiary form must:

(1) Be received by the TSP record keeper on or before the date of the participant's death;

(2) Identify the participant in such a manner so that the Agency can locate his or her TSP account;

(3) Be signed and properly dated by the participant and signed and properly dated by one witness;

(i) The participant must either sign the form in the presence of the witness or acknowledge his or her signature on the form to the witness;

(ii) All submitted and attached pages of the form must be signed and dated by the participant;

(iii) All submitted and attached pages of the form must be signed and dated by the same witness;

(iv) A witness must be age 21 or older; and

(v) A witness designated as a beneficiary will not be entitled to receive a death benefit payment; if a witness is the only named beneficiary, the designation of the beneficiary is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries pro rata.

(4) Designate primary beneficiary shares which when summed equal 100%;

(5) Contain no substantive alterations (e.g., struck-through shares or scratched-out names of beneficiaries);

(6) Designate each primary and each contingent beneficiary in such a manner so that the Agency can identify the individual or entity;

(7) For each contingent beneficiary, identify the primary beneficiary whose share the contingent beneficiary is to receive in the event the primary beneficiary dies before payment is made;

(8) Not attempt to designate beneficiaries for the participant's traditional balance and the participant's Roth balance separately; and

(9) Be received by the TSP record-keeper not more than 365 calendar days

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after the date of the participant's most recent signature.

(d) *Will.* A participant cannot use a will to designate a TSP beneficiary.

[70 FR 32216, June 1, 2005, as amended at 75 FR 44066, July 28, 2010; 77 FR 26427, May 4, 2012; 79 FR 38748, July 9, 2014; 79 FR 44261, July 31, 2014; 82 FR 60105, Dec. 19, 2017]

§ 1651.4 How to change or cancel a designation of beneficiary.

(a) *Change.* To change a designation of beneficiary, the participant must submit to the TSP record keeper a new TSP designation of beneficiary form meeting the requirements of § 1651.3 to the TSP record keeper. If the TSP receives more than one valid TSP designation of beneficiary form, it will honor the form with the latest date signed by the participant. A participant may change a TSP beneficiary at any time, without the knowledge or consent of any person, including his or her spouse.

(b) *Cancellation.* A participant may cancel all prior designations of beneficiaries by sending the TSP record keeper either a new valid designation of beneficiary form meeting the requirements of § 1651.3, or a letter. If the participant uses a letter to cancel a designation of beneficiary, it must be signed and witnessed in the same manner as a TSP designation of beneficiary form; it must explicitly state that all prior designations are canceled; and the TSP record keeper must receive it on or before the date of the participant's death.

(c) *Will.* A participant cannot use a will to change or cancel a TSP designation of beneficiary.

[70 FR 32216, June 1, 2005]

§ 1651.5 Spouse of participant.

(a) For purposes of payment under § 1651.2(a)(2) and establishment of beneficiary participant accounts under § 1651.19, the spouse of the participant is the person to whom the participant was married on the date of death. A person is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. The laws of the jurisdiction in which the marriage was initially established will be used to deter-

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mine whether the participant was married on the date of death.

(b) If a person claims to have a marriage at common law with a deceased participant, the TSP will pay benefits to the putative spouse under § 1651.2(a)(2) in accordance with the marital status shown on the most recent Federal income tax return filed by the participant. Alternatively, the putative spouse may submit a court order or administrative adjudication determining that the common law marriage is valid.

[71 FR 9897, Feb. 28, 2006, as amended at 75 FR 78879, Dec. 17, 2010; 78 FR 57784, Sept. 20, 2013]

§ 1651.6 Child or children.

If the account is to be paid to the child or children, or to descendants of deceased children by representation, as provided in § 1651.2(a)(3), the following rules apply:

(a) *Child.* A child includes a natural or adopted child of the deceased participant.

(b) *Descendants of deceased children.* “By representation” means that, if a child of the participant dies before the participant, all descendants of the deceased child at the same level will equally divide the deceased child's share of the participant's account.

(c) *Adoption by another.* A natural child of a TSP participant who has been adopted by someone other than the participant during the participant's lifetime will not be considered the child of the participant, unless the adopting parent is the spouse of the TSP participant.

(d) *Parentage disputes.* If the identity of the father or mother of a child is in dispute or otherwise unclear (e.g., only one parent is listed on a birth certificate), the purported child must submit to the TSP either:

(1) A court order or other administrative finding establishing parentage; or

(2) Documentation sufficient for establishing parentage under the law of the state in which the participant was domiciled at the time of death.

[62 FR 32429, June 13, 1997, as amended at 74 FR 63063, Dec. 2, 2009]

§ 1651.7 Parent or parents.

If the account is to be paid to the participant's parent or parents under § 1651.2(a)(4), the following rules apply:

(a) *Amount.* If both parents are alive at the time of the participant's death, each parent will be separately paid fifty percent of the account. If only one parent is alive at the time of the participant's death, he or she will receive the entire account balance.

(b) *Step-parent.* A step-parent is not considered a parent unless the step-parent adopted the participant.

§ 1651.8 Participant's estate.

If the account is to be paid to the duly appointed executor or administrator of the participant's estate under § 1651.2(a)(5), the following rules apply:

(a) *Appointment by court.* The executor or administrator must provide documentation of court appointment.

(b) *Appointment by operation of law.* If state law provides procedures for handling small estates, the Board will accept the person authorized to dispose of the assets of the deceased participant under those procedures as a duly appointed executor or administrator. Documentation which demonstrates that the person is properly authorized under state law must be submitted to the TSP record keeper.

§ 1651.9 Participant's next of kin.

If the account is to be paid to the participant's next of kin under § 1651.2(a)(6), the next of kin of the participant will be determined in accordance with the state law of the participant's domicile at the time of death.

§ 1651.10 Deceased and non-existent beneficiaries.

(a) *Designated beneficiary dies before participant.* The share of any designated beneficiary who predeceases the participant will be paid pro rata to the participant's other designated beneficiary or beneficiaries. If no designated beneficiary survives the participant, the account will be paid according to the order of precedence set forth in § 1651.2(a).

(b) *Trust designated as beneficiary but not in existence.* If a participant designated a trust or other entity as a beneficiary and the entity does not

exist on the date of the participant's death, or is not created by will or other document that is effective upon the participant's death, the amount designated to the entity will be paid in accordance with the rules of paragraph (a) of this section, as if the trust were a beneficiary that predeceased the participant.

(c) *Non-designated beneficiary dies before participant.* If a beneficiary other than a beneficiary designated on a TSP designation of beneficiary form dies before the participant, the beneficiary's share will be paid equally to other living beneficiaries bearing the same relationship to the participant as the deceased beneficiary. However, if the deceased beneficiary is a child of the participant, payment will be made to the deceased child's descendants, if any. If there are no other beneficiaries bearing the same relationship or, in the case of children, there are no descendants of deceased children, the deceased beneficiary's share will be paid to the person(s) next in line according to the order of precedence.

(d) *Beneficiary dies after participant but before payment.* If a beneficiary dies after the participant, the beneficiary's share will be paid to the beneficiary's estate. A copy of a beneficiary's certified death certificate is required in order to establish that the beneficiary has died, and when.

[70 FR 32216, June 1, 2005]

§ 1651.11 Simultaneous death.

If a beneficiary dies at the same time as the participant, the beneficiary will be treated as if he or she predeceased the participant and the account will be paid in accordance with § 1651.10. The same time is considered to be the same hour and minute as indicated on a death certificate. If the participant and beneficiary are killed in the same event, death is presumed to be simultaneous, unless evidence is presented to the contrary.

§ 1651.12 Homicide.

If the participant's death is the result of a homicide, a beneficiary will not be paid as long as the beneficiary is under investigation by local, state or Federal law enforcement authorities as

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a suspect. If the beneficiary is implicated in the death of the participant and the beneficiary would be precluded from inheriting under state law, the beneficiary will not be entitled to receive any portion of the participant's account. The Board will follow the state law of the participant's domicile as that law is set forth in a civil court judgment (that, under the law of the state, would protect the Board from double liability or payment) or, in the absence of such a judgment, will apply state law to the facts after all criminal appeals are exhausted. The Board will treat the beneficiary as if he or she predeceased the participant and the account will be paid in accordance with § 1651.10.

[62 FR 32429, June 13, 1997, as amended at 75 FR 44066, July 28, 2010]

§ 1651.13 How to apply for a death benefit.

The TSP has created a paper form that a potential beneficiary must use to apply for a TSP death benefit. The TSP must receive this form before a death benefit can be paid. Any individual can file this form with the TSP record keeper. The individual submitting the form must attach to the form a certified copy of the participant's death certificate. The TSP record keeper's acceptance of this form does not entitle the applicant to benefits. Please visit <http://www.tsp.gov> to obtain a copy of this form and for the current mailing address for death benefit applications.

[70 FR 32217, June 1, 2005, as amended at 71 FR 50319, Aug. 25, 2006]

§ 1651.14 How payment is made.

(a) Each beneficiary's death benefit will be disbursed pro rata from the participant's traditional and Roth balances. The payment from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The payment from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all death benefits will be disbursed pro rata from all TSP Funds in which the deceased participant's account is invested. All pro

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rated amounts will be based on the balances in each TSP Fund or source of contributions on the day the disbursement is made. Disbursement will be made separately for each entitled beneficiary.

(b) *Spouse beneficiaries.* The TSP will automatically transfer a surviving spouse's death benefit to a beneficiary participant account (described in § 1651.19) established in the spouse's name. The TSP will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than \$200 on the date the account is established. The Agency also will not transfer this amount or pay it by electronic funds transfer. Instead the spouse will receive an immediate distribution in the form of a check.

(c) *Nonspouse beneficiaries.* The TSP record keeper will send notice of pending payment to each beneficiary. Payment will be sent to the address that is provided on the participant's TSP designation of beneficiary form unless the TSP receives written notice of a more recent address. All beneficiaries must provide the TSP record keeper with a taxpayer identification number; *i.e.*, Social Security number (SSN), employee identification number (EIN), or individual taxpayer identification number (ITIN), as appropriate. The following additional rules apply to payments to nonspouse beneficiaries:

(1) *Payment to minor child or incompetent beneficiary.* Payment will be made in the name of a minor child or incompetent beneficiary. A parent or other guardian may direct where the payment should be sent and may make any permitted tax withholding election. A guardian of a minor child or incompetent beneficiary must submit court documentation showing his or her appointment as guardian.

(2) *Payment to executor or administrator.* If payment is to the executor or administrator of an estate, the check will be made payable to the estate of the deceased participant, not to the executor or administrator. A TIN must be provided for all estates.

(3) *Payment to trust.* If payment is to a trust, the payment will be made payable to the trust and mailed in care of

the trustee. A TIN must be provided for the trust.

(4) *Payment to inherited IRA on behalf of a nonspouse beneficiary.* If payment is to an inherited IRA on behalf of a nonspouse beneficiary, the check will be made payable to the account. Information pertaining to the inherited IRA must be submitted by the IRA trustee. A payment to an inherited IRA will be made only in accordance with the rules set forth in 5 CFR 1650.25.

(5) If a death benefit payment is returned as undeliverable, the TSP record keeper will attempt to contact the beneficiary. If the beneficiary does not respond within 60 days, the TSP will forfeit the death benefit payment to the Plan. The beneficiary can claim the forfeited funds, although they will not be credited with TSP investment returns.

(6) A properly paid death benefit payment cannot be returned to the TSP.

[62 FR 32429, June 13, 1997, as amended at 67 FR 49527, July 30, 2002; 68 FR 35510, June 13, 2003; 68 FR 74451, Dec. 23, 2003; 70 FR 32217, June 1, 2005; 72 FR 53414, Sept. 19, 2007; 75 FR 78879, Dec. 17, 2010; 77 FR 26427, May 4, 2012]

§ 1651.15 Claims referred to the Board.

(a) *Contested claims.* Any challenge to a proposed death benefit payment must be filed in writing with the TSP record keeper before payment. All contested claims will be referred to the Board. The Board may also consider issues on its own.

(b) *Payment deferred.* No payment will be made until the Board has resolved the claim.

§ 1651.16 Missing and unknown beneficiaries.

(a) *Locate and identify beneficiaries.* (1) The TSP record keeper will attempt to identify and locate all potential beneficiaries.

(2) If a beneficiary is not identified and located, and at least one year has passed since the date of the participant's death, the beneficiary will be treated as having predeceased the participant and the beneficiary's share will be paid in accordance with § 1651.10

(b) *Payment to known beneficiaries.* If all potential beneficiaries are known but one or more beneficiaries (and not all) appear to be missing, payment of

part of the participant's account may be made to the known beneficiaries. The lost or unidentified beneficiary's share may be paid in accordance with paragraph (a) of this section at a later date.

(c) *Abandoned account.* If no beneficiaries of the account are located, the account will be considered abandoned and the funds will revert to the TSP. If there are multiple beneficiaries and one or more of them refuses to cooperate in the Board's search for the missing beneficiary, the missing beneficiary's share will be considered abandoned. In such circumstances, the account can be reclaimed if the missing beneficiary is found at a later date. However, earnings will not be credited from the date the fund is abandoned. The TSP may require the beneficiary to apply for the death benefit with a TSP form and submit proof of identity and relationship to the participant.

[62 FR 32429, June 13, 1997, as amended at 70 FR 32217, June 1, 2005]

§ 1651.17 Disclaimer of benefits.

(a) *Right to disclaim.* The beneficiary of a TSP account may disclaim his or her right to receive all or part of a TSP death benefit. If the disclaimant is a minor, the parent or guardian of the minor must sign the disclaimer.

(b) *Valid disclaimer.* The disclaimer must expressly state that the beneficiary is disclaiming his or her right to receive either all or a stated percentage of the death benefit payable from the TSP account of the named participant and must be:

- (1) Submitted in writing;
- (2) Signed or acknowledged, in the presence of a notary, by the person (or legal representative) disclaiming the benefit; and
- (3) Received before the TSP pays the death benefit.

(c) *Invalid disclaimer.* A disclaimer is invalid if it:

- (1) Is revocable;
- (2) Directs to whom the disclaimed benefit should be paid; or
- (3) Specifies which balance (traditional, Roth, or tax-exempt) is to be disclaimed.

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(d) *Disclaimer effect.* The disclaimed share will be paid as though the beneficiary predeceased the participant, according to the rules set forth in § 1651.10. Any part of the death benefit which is not disclaimed will be paid to the disclaimant pursuant to § 1651.14.

[68 FR 35510, June 13, 2003, as amended at 75 FR 44066, July 28, 2010; 77 FR 26428, May 4, 2012]

§ 1651.18 Payment to one beneficiary account to another.

Payment made to a beneficiary(ies) in accordance with this part, based upon information received before payment, bars any claim by any other person.

§ 1651.19 Beneficiary participant accounts.

A beneficiary participant account may be established only for a spouse of a deceased participant who is a sole or partial beneficiary of the deceased participant's TSP account. Beneficiary participant accounts are subject to the following rules and procedures:

(a) *Initial investment allocation.* Regardless of the allocation of the deceased participant's account balance at the time of his or her death, each beneficiary participant account, once established, will be allocated 100 percent to the age-appropriate TSP Lifecycle Fund based on the beneficiary participant's date of birth. A beneficiary participant may redistribute his or her beneficiary participant account balance among the TSP investment funds by making an interfund transfer request described in part 1601, subpart C of this chapter.

(b) *Contributions.* A beneficiary participant may not make contributions or transfers to his or her beneficiary participant account. The TSP will not accept a contribution allocation request described in part 1601, subpart B of this chapter for a beneficiary participant account.

(c) *Required minimum distributions.* (1) A beneficiary participant must receive required minimum distributions from his or her beneficiary participant account commencing no later than the required beginning date and, for each year thereafter, no later than December 31.

(2) A beneficiary 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.

(3) In the event that a beneficiary participant does not withdraw from his or her beneficiary participant 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 (c)(1) of this section.

(4) The TSP will disburse required minimum distributions described in paragraph (c)(3) of this section pro rata from the beneficiary participant's traditional balance and the beneficiary participant's Roth balance.

(d) *Withdrawal elections.* A beneficiary participant may elect any withdrawal option is available to separated participants. The provisions of § 1650.12, § 1650.13, and § 1650.14 shall apply as if all references to a participant are references to a beneficiary participant and all references to an account balance are references to a beneficiary participant account balance.

(e) *Ineligibility for certain withdrawals.* A beneficiary participant is ineligible to request the following types of withdrawals from his or her beneficiary participant account: Age-based withdrawals described in § 1650.31 of this chapter, financial hardship withdrawals described in § 1650.32 of this chapter, or loans described in part 1655 of this chapter. A beneficiary participant will not be ineligible for a partial withdrawal because the deceased participant previously elected an age-based withdrawal.

(f) *Spousal rights.* The spousal rights described in 5 U.S.C. 8351, 5 U.S.C. 8435, and § 1650.61 of this chapter do not apply to beneficiary participant accounts.

(g) *Transfers.* A beneficiary participant may request that the TSP transfer all or a portion of an eligible rollover distribution (within the meaning of I.R.C. section 402(c)(4)) from his or her beneficiary participant account to traditional IRA, Roth IRA or eligible employer plan (including a civilian or uniformed services TSP account other

than a beneficiary participant account). In order to request such a transfer, the beneficiary participant must use the transfer form provided by the TSP.

(h) *Periodic statements.* The TSP will furnish beneficiary participants with periodic statements in a manner consistent with part 1640 of this chapter.

(i) *Privacy Act.* Part 1630 of this chapter shall apply with respect to a beneficiary participant as if the beneficiary participant is a TSP participant.

(j) *Error correction.* If, because of an error committed by the Board or the TSP record keeper, a beneficiary participant's account is not credited or charged with the investment gains or losses the account would have received had the error not occurred, the account will be credited subject to and in accordance with the rules and procedures set forth in §1605.21. A beneficiary participant may submit a claim for correction of Board or TSP record keeper error pursuant to the procedures described in §1605.22.

(k) *Court orders.* Court orders relating to a civilian beneficiary participant account or uniformed services beneficiary participant account shall be processed pursuant to the procedures set forth in part 1653 of this chapter as if all references to a TSP participant are references to a beneficiary participant and all references to a TSP account or account balance are references to a beneficiary participant account or beneficiary participant account balance. Notwithstanding any provision of part 1653, a payee of a court-ordered distribution from a beneficiary participant account cannot request a transfer of the court-ordered distribution to an eligible employer plan or IRA.

(l) *Death of beneficiary participant.* To the extent it is not inconsistent with this §1651.19, a beneficiary participant account shall be disbursed upon the death of the beneficiary participant in accordance with part 1651 as if any reference to a participant is a reference to a beneficiary participant. For example, a beneficiary participant may designate a beneficiary for his or her beneficiary participant account in accordance with §1651.3 and §1651.4 of this chapter. No individual who is entitled

to a death benefit from a beneficiary participant account shall be eligible to keep the death benefit in the TSP or request that the TSP transfer all or a portion of the death benefit to an IRA or eligible employer plan.

(m) *Uniformed services beneficiary participant accounts.* Uniformed services beneficiary participant accounts are subject to the following additional rules and procedures:

(1) Uniformed services beneficiary participant accounts are established and maintained separately from civilian beneficiary participant accounts. Beneficiary participants who have a uniformed services beneficiary participant account and a civilian beneficiary participant account will be issued two separate TSP account numbers. A beneficiary participant must file separate interfund transfers and/or withdrawal requests for each account and submit separate beneficiary designation forms for each account;

(2) A uniformed services beneficiary participant account and a civilian beneficiary participant account cannot be combined;

(3) If a uniformed services beneficiary participant account contains tax-exempt contributions, any payments or withdrawals from the account will be distributed pro rata from the tax-deferred balance and the tax-exempt balance;

(4) A beneficiary participant may transfer or roll over all or any portion of an eligible rollover distribution (within the meaning of I.R.C. section 402(c)(4)) from a uniformed services beneficiary participant account into a civilian or uniformed services TSP participant account. However, tax-exempt money attributable to combat zone contributions cannot be transferred from a uniformed services beneficiary participant account to a civilian TSP participant account.

(n) *Multiple beneficiary accounts.* Each beneficiary participant account is maintained separately from all other beneficiary participant accounts. If an individual has multiple beneficiary participant accounts, each of the individual's beneficiary participant accounts will have a unique account number. A beneficiary participant must file separate interfund transfers

and/or withdrawal requests and submit separate beneficiary designation forms for each beneficiary participant account that the TSP maintains for him or her. A beneficiary participant account cannot be combined with another beneficiary participant account.

[75 FR 78879, Dec. 17, 2010, as amended at 77 FR 26428, May 4, 2012; 80 FR 52174, Aug. 28, 2015; 84 FR 46423, Sept. 4, 2019]

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

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AUTHORITY: 5 U.S.C. 8432d, 8435, 8436(b), 8437(e), 8439(a)(3), 8467, 8474(b)(5) and 8474(c)(1).

SOURCE: 68 FR 35510, June 13, 2003, unless otherwise noted.

Subpart A—Retirement Benefits Court Orders

§ 1653.1 Definitions.

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

(b) As used in this subpart:

Court means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by 25 U.S.C. 1301(3).

Effective date of a court order means the date it was entered by the clerk of the court or, if the order does not show a date entered, the date it was filed by the clerk of the court or, if the order does not contain a date entered or a date filed, the date it was signed by the judge.

Payment date refers to the date on which earnings are determined and is generally two business days prior to the date of an award’s disbursement.

Retirement benefits court order or *order* means a court decree of divorce, annulment or legal separation, or a court order or court-approved property settlement agreement incident to such a decree. Orders may be issued at any stage of a divorce, annulment, or legal separation proceeding.

TSP investment earnings or earnings means both positive and negative fund performance attributable to differences in TSP fund share prices.

[68 FR 35510, June 13, 2003, as amended at 74 FR 63063, Dec. 2, 2009]

§ 1653.2 Qualifying retirement benefits court orders.

(a) To be qualifying, and thus enforceable against the TSP, a retirement benefits court order must meet the following requirements:

(1) The order must expressly relate to the Thrift Savings Plan account of a TSP participant. This means that:

(i) The order must expressly refer to the “Thrift Savings Plan” or describe the TSP in such a way that it cannot be confused with other Federal Government retirement benefits or non-Federal retirement benefits;

(ii) The order must be written in terms appropriate to a defined contribution plan rather than a defined