

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**5 CFR Part 1640****Periodic Participant Statements**

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing final regulations governing the periodic information to be furnished to participants in the Thrift Savings Plan (TSP). The regulations implement various provisions of the Federal Employees' Retirement System Act of 1986 (FERSA), as amended. The regulations clarify the types of periodic information provided to participants in the TSP, conform definitions in the interim regulations to those found in the Board's other regulations, and otherwise make these regulations easier to read.

EFFECTIVE DATE: These final rules are effective June 24, 1997.

FOR FURTHER INFORMATION CONTACT: Merritt A. Willing on (202) 942-1661.

SUPPLEMENTARY INFORMATION: The Board administers the Thrift Savings Plan (TSP), a defined contribution plan for Federal employees established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99-335, 100 Stat. 514 (codified, as amended, largely at 5 U.S.C. 8401-8479). The TSP is a tax-deferred retirement savings plan for Federal employees that is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code. The requirement that periodic statements be provided to participants by the TSP is found at 5 U.S.C. 8439(c). On June 1, 1987, the Board published an interim rule with request for comments in the **Federal Register** (52 FR 20371) which implemented the periodic statement provision of FERSA. The Board received comments from employees and agencies suggesting that the Board issue periodic statements more than twice a year. The Board considered these comments but decided not to issue statements more often than is required by statute because of the administrative cost associated with additional statements, which is an expense borne by all TSP participants.

On May 9, 1997 (62 FR 25559), the Board published these regulations as proposed rulemaking. The Board did not receive any comments on the proposed regulations.

Section 1640.1 contains definitions of words or terms used throughout the regulation. Some of the definitions

contained in the interim regulations are amended by the final rule to conform them to the Board's other regulations issued at 5 CFR chapter VI.

Section 1640.2 requires the Board to provide information to each TSP participant at least once every six months, no later than 30 days before the last month of an open season.

Sections 1640.3 and 1640.4 set forth the type of information that will be furnished to a participant regarding the status of his or her individual account during the reporting period.

Section 1640.5 describes the information to be furnished to participants relating to investments in the three investment funds described in 5 U.S.C. 8438. Two types of information are provided: (1) a description of the investment fund, and (2) a five-year history of the performance of that type of investment.

Section 1640.6 provides that individual account statements will be mailed to TSP participants by the Board's record keeper. Information regarding the TSP investments may either be mailed to TSP participants or included with other informational material that is distributed in a way reasonably designed to reach TSP participants.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only internal Government procedures related to the TSP.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Pub. L. 104-4, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by any State, local, and tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64-65, is not required.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing this rule and other required information to the

U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before the publication of this rule in today's **Federal Register**. This rule is not a major rule as defined in section 804(2).

List of Subjects in 5 CFR Part 1640

Employee benefit plans, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement.

Federal Retirement Thrift Investment Board.

Roger W. Mehle,

Executive Director.

For the reasons set forth in the preamble, part 1640 of chapter VI of title 5 of the Code of Federal Regulations is amended as follows:

PART 1640—PERIODIC PARTICIPANT STATEMENTS

1. The authority citation for part 1640 continues to read as follows:

Authority: 5 U.S.C. 8439 (c)(1) and (c)(2), 5 U.S.C. 8474 (b)(5) and (c)(1).

2. Section 1640.1 is amended by removing the definitions of "Employee contribution," "Employer basic contribution," "Employer matching contribution," "Source," "Thrift Savings Fund," "Thrift Savings Plan or Plan," and "Thrift Savings Plan Service Office," by revising the definitions of "C Fund," "Executive Director," "F Fund," "G Fund," "Individual account," "Investment fund," "Open season," and "Participant," and by adding, in alphabetical order, three new definitions to read as follows:

§ 1640.1 Definitions.

* * * * *

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C);

Executive Director means the Executive Director of the Board described in 5 U.S.C. 8474;

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B);

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A);

Individual account means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a);

Investment fund means either the G Fund, the F Fund, or the C Fund, or any other Thrift Savings Plan investment fund created after June 24, 1997;

Open season means the period during which participants may choose to begin making contributions to the Thrift Savings Plan, to change or discontinue

the amount they are currently contributing to the Thrift Savings Plan (without losing the right to recommence contributions the next open season), or to allocate prospective contributions to the Thrift Savings Plan among the investment funds;

Participant means any person with an individual account in the Thrift Savings Plan, or who would have an account in the Thrift Savings Plan but for an employing agency error;

Record keeper means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. As of June 24, 1997, the record keeper is the National Finance Center, Office of the Chief Financial Officer, United States Department of Agriculture, located in New Orleans, Louisiana.

Source of contributions means either agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1) or 8432(c)(3), agency matching contributions under 5 U.S.C. 8432(c)(2), or employee contributions under 5 U.S.C. 8351, or 8440(a) through 8440d;

Thrift Savings Plan means the Federal Retirement Thrift Savings Plan established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, which has been codified, as amended, largely at 5 U.S.C. 8401-8479.

3. Section 1640.2 is revised to read as follows:

§ 1640.2 Duty to provide information.

The Executive Director will provide the information prescribed in §§ 1640.3 and 1640.5 at least once every six months, and not later than thirty (30) days before the last month of an open season.

4. Section 1640.3 is amended by revising the introductory text and paragraphs (c)(2), (d) and (e) to read as follows:

§ 1640.3 Statement of individual account.

The Executive Director will furnish each participant with the following information concerning that participant's individual account:

* * * * *

(c) * * *

(2) The amounts of contributions and earnings in the C Fund, the F Fund, and the G Fund, by source of contribution;

(d) All transactions made in accordance with § 1640.4 and affecting the individual account which occurred during the period covered by the statement;

(e) Any other information that the Executive Director determines should be in the statement.

5. Section 1640.4 is revised to read as follows:

§ 1640.4 Account transactions.

(a) Where relevant, the following transactions will be reported in each individual account statement:

- (1) Contributions;
- (2) Earnings posted;
- (3) Withdrawals;
- (4) Forfeitures;
- (5) Loan Activity;
- (6) Transfers among investment funds;
- (7) Adjustments to prior transactions;

and
(8) Any other transaction that the Executive Director deems will affect the status of the individual account.

(b) Where relevant, the statement will contain the following information concerning each transaction identified in paragraph (a) of this section:

- (1) Type of transaction;
- (2) Pay date of the pay period in which the transaction was reflected in the participant's salary payment;
- (3) Investment funds affected;
- (4) Date the transaction was processed;
- (5) Source of the contribution;
- (6) Amount of the transaction; and
- (7) Any other information the Executive Director deems relevant.

6. Section 1640.5 is revised to read as follows:

§ 1640.5 Investment fund information.

For each open season, the Executive Director will furnish each participant with a statement concerning each of the investment funds. This statement will contain the following information concerning each investment fund:

(a) A summary description of the type of investments to be made by the fund, written in a manner that will allow the participant to make an informed decision; and

(b) The performance history of the type of investments to be made by the fund, covering the five-year period preceding the date of the evaluation.

7. Section 1640.6 is revised to read as follows:

§ 1640.6 Method of providing information.

(a) *Individual account statement.* The information concerning each participant's individual account described in §§ 1640.3 and 1640.4 will be sent to the participant at the participant's last known address, by first class mail. It is the participant's responsibility to provide his or her current address to his or her agency or, in the case of a separated employee, to the record keeper.

(b) *Investment information.* The investment information described in § 1640.5 will be furnished to each participant either:

(1) By mailing the information to the participant by the method described in paragraph (a) of this section; or

(2) By including that information in material published by the Board and distributed in a manner reasonably designed to reach the participant. This includes distributing the material through the participant's agency or, in the case of a separated employee, through the record keeper.