

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1605

Correction of Administrative Errors

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) proposes to use a constructed share price for retired Lifecycle funds in order to make error corrections after December 31st of the target year.

DATES: Comments must be received on or before November 15, 2010.

ADDRESSES: You may submit comments using one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Office of General Counsel, Attn: Thomas Emswiler, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005.
- *Hand Delivery/Courier:* The address for sending comments by hand delivery or courier is the same as that for submitting comments by mail.
- *Facsimile:* Comments may be submitted by facsimile at (202) 942-1676.

The most helpful comments explain the reason for any recommended change and include data, information, and the authority that supports the recommended change. We will post all substantive comments (including any personal information provided) without change (with the exception of redaction of SSNs, profanities, et cetera) on <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at (202) 942-1645.

SUPPLEMENTARY INFORMATION: The Agency administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public

Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

Constructed Share Price

The Agency currently offers five Lifecycle funds: L Income, L 2010, L 2020, L 2030, and L 2040. The Agency will retire the L 2010 Fund when it reaches its target date of December 31, 2010. Upon retiring the L 2010 Fund, the Agency will transfer all money invested in the L 2010 Fund to the L Income Fund. Participants will no longer be able to make contributions to the L 2010 Fund after December 31, 2010. In effect, the L 2010 Fund will no longer exist.

The Agency anticipates receiving late and makeup contributions that would have been invested in the L 2010 Fund had they been made on time. Likewise, the Agency anticipates needing to remove funds erroneously contributed to the L 2010 Fund prior to its retirement date, i.e., do a negative adjustment. The Agency uses the current share price of the applicable investment fund when calculating the value of late contributions, makeup contributions, and negative adjustments. Because the L 2010 fund will no longer exist, the Agency must construct an appropriate "current" share price in order to make error corrections involving the L 2010 Fund after December 31, 2010.

The Agency proposes to calculate the constructed share price for the L 2010 Fund as follows: The constructed share price is the L 2010 Fund share price on December 31, 2010, multiplied by the current L Income Fund share price, divided by the L Income Fund share price on December 31, 2010. This calculation reflects the impact of merging the assets of the L 2010 Fund into the L Income Fund on December 31, 2010. The Agency will apply this calculation to retired Lifecycle funds in the future by substituting the L 2010 Fund and December 31, 2010 retirement date as follows: The constructed share price is the retired Lifecycle fund share

price on December 31 of the retirement year, multiplied by the current L Income Fund share price, divided by the L Income Fund share price on December 31 of the retirement year.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, and which is administered by the Agency.

Paperwork Reduction Act

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

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501-1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

List of Subjects in 5 CFR Part 1605

Claims, Government employees, Pensions, Retirement.

Gregory T. Long,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set forth in the preamble, the Agency proposes to amend 5 CFR part 1605 as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

1. The authority citation for part 1605 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432a, and 8474(b)(5) and (c)(1). Subpart B also issued under section 1043(b) of Public Law 104-106, 110 Stat. 186 and sec. 7202(m)(2) of Public Law 101-508, 104 Stat. 1388.

§ 1605.2 [Amended]

2. Amend § 1605.2, by revising paragraph (b)(1)(iii) and adding paragraph (b)(1)(iv) to read as follows:

* * * * *

(b) * * *

(1) * * *

(iii) Determine the dollar value on the posting date of the number of shares the participant would have received had the contributions or loan payments been made on time. If the contributions or loan payments would have been invested in a Lifecycle fund that is retired on the posting date, the constructed share price shall equal the retired Lifecycle fund share price on December 31 of the retirement year, multiplied by the current L Income Fund share price, divided by the L Income Fund share price on December 31 of the retirement year. The dollar value shall be the number of shares the participant would have received had the contributions or loan payments been made on time multiplied by the constructed share price.

(iv) The difference between the dollar value of the contribution or loan payment on the posting date and the dollar value of the contribution or loan payment on the "as of" date is the breakage.

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§ 1605.12 [Amended]

3. Amend § 1605.12, by revising paragraph (c)(2)(ii) to read as follows:

* * * * *

(c) * * *

(2) * * *

(ii) Multiply the price per share on the date the adjustment is posted by the number of shares calculated in paragraph (c)(2)(i) of this section. If the contribution was erroneously contributed to a Lifecycle fund that is retired on the date the adjustment is posted, the price per share shall equal the retired Lifecycle fund share price on December 31 of the retirement year, multiplied by the current L Income Fund share price, divided by the L Income Fund share price on December 31 of the retirement year.

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[FR Doc. 2010-25855 Filed 10-13-10; 8:45 am]

BILLING CODE 6760-01-P

DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Part 560**

[Docket ID OTS-2010-0029]

RIN 1557-AC44

Alternatives to the Use of External Credit Ratings in the Regulations of the OTS

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act) directs all Federal agencies to review, no later than one year after enactment, any regulation that requires the use of an assessment of credit-worthiness of a security or money market instrument and any references to or requirements in regulations regarding credit ratings. The agencies are also required under the Act to remove references or requirements of reliance on credit ratings and to substitute an alternative standard of credit-worthiness.

Through this ANPR, the OTS seeks comment on the implementation of section 939A with respect to its regulations (other than risk-based capital regulations, which are the subject of a separate ANPR issued jointly with the other Federal banking agencies), including alternative measures of credit-worthiness that may be used in lieu of credit ratings.

DATES: Comments on this ANPR must be received by November 15, 2010.

ADDRESSES: You may submit comments, identified by OTS-2010-0029, by any of the following methods:

- *Federal eRulemaking Portal:* "Regulations.gov": Go to <http://www.regulations.gov> and follow the instructions for submitting comments.

- *Mail:* Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, *Attention:* OTS-2010-0029.

- *Facsimile:* (202) 906-6518.

- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, *Attention:* Regulation Comments, Chief Counsel's Office, *Attention:* OTS-2010-0029.

- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change, including any personal

information provided. Comments, including attachments and other supporting materials received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

- *Viewing Comments Electronically:* Go to <http://www.regulations.gov> and follow the instructions for reading comments.

- *Viewing Comments On-Site:* You may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to public.info@ots.treas.gov, or send a facsimile transmission to (202) 906-6518. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT: William Magrini, Senior Project Manager, Risk Management Division, (202) 906-5744; or Marvin Shaw, Senior Attorney, Regulations and Legislation Division, Office of Chief Counsel, (202) 906-6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:**I. Background**

Section 939A of the Act requires each Federal agency to review (1) any regulation issued by such agency that requires the use of an assessment of the credit-worthiness of a security or money market instrument; and (2) any references to or requirements in such regulations regarding credit ratings.¹ Each Federal agency must then modify any such regulations identified by the review * * * to remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness as each respective agency shall determine as appropriate for such regulations. In developing substitute standards of credit-worthiness, an agency shall seek to establish, to the extent feasible, uniform standards of credit-worthiness for use by the agency, taking into account the entities it regulates that would be subject to such standards.²

¹ Public Law 111-203, 124 Stat. 1376, section 939A (July 21, 2010).

² *Id.*