

subsequently declared in accordance with § 1655.15(a). Interest will also accrue on payments missed while a participant is in nonpay status and on any deemed distribution until it is repaid in full.

(g) A participant who has separated from Government service with an outstanding loan balance may continue making loan repayments via check, guaranteed funds, or loan direct debit repayments. If a separated participant does not begin making post-separation loan repayments or pay off the loan in full by the deadline imposed by the TSP record keeper, the TSP record keeper will declare the outstanding loan balance and accrued interest to be a loan offset in accordance with § 1655.15(b). In the case of a separated participant who commences post-separation loan repayments, if a payment is not made when due, the TSP record keeper will notify the separated participant of the missed payment and he or she must make up the payment in full. The make-up payment must be in the form of a check, guaranteed funds, or a one-time payment via loan direct debit from his or her personal savings or checking account. If the participant does not make up all missed payments by the end of the calendar quarter following the calendar quarter in which the first payment was missed, the TSP record keeper will declare the outstanding loan balance and accrued interest to be a loan offset in accordance with § 1655.15(b).

[87 FR 31693, May 24, 2022]

#### **§ 1655.15 Deemed Distributions and Loan Offsets.**

(a) The TSP record keeper will ensure that all requirements set forth in section 72(p) of the Internal Revenue Code and the regulations promulgated thereunder with respect to deemed distributions are satisfied.

(1) The TSP record keeper will declare the entire unpaid balance of an outstanding loan (including interest) to be a deemed distribution if:

(i) The participant misses two or more loan payments or the participant's payments are made for less than the required amount, and the delinquency is not cured within the cure period;

(ii) The loan is not repaid in full by the maximum term limit; or

(iii) A participant is in a confirmed nonpay status for a period of one year or more, has not advised the TSP record keeper that he or she is serving on active military duty, and payments are not resumed after the participant is notified the loan has been reamortized.

(2) Loan taxation does not relieve a participant of his or her obligation to repay the taxed loan amount. A participant may repay a taxed loan in full (including accrued interest) via check or money order up until the time he or she separates from Government service. The tax basis in a participant's TSP account will be adjusted to reflect the repayment of a taxed loan.

(3) If a participant does not repay a taxed loan:

(i) His or her account balance will be permanently reduced; and

(ii) The taxed loan will count as one of the two loans the participant is permitted per account and is treated as an outstanding loan balance when calculating the participant's maximum loan amount.

(b) The TSP record keeper will ensure that all requirements set forth in section 72(p) of the Internal Revenue Code and the regulations promulgated thereunder with respect to loan offsets are satisfied.

(1) The TSP record keeper will declare a loan offset in the following situations:

(i) A participant separates from Government service and does not begin making loan repayments or repay the outstanding loan principal and interest in full within the period specified by the notice to the participant from the TSP record keeper explaining the participant's repayment options; or

(ii) The participant dies.

(2) [Reserved]

(c) If a deemed distribution or loan offset occurs in accordance with paragraph (a) or (b) of this section, as applicable, the TSP record keeper will notify the participant of the amount and date of the distribution. The TSP record keeper will report the distribution to the Internal Revenue Service as income for the year in which it occurs.

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(d) If a participant dies and a loan offset occurs in accordance with paragraph (b) of this section, the TSP record keeper will notify the participant's estate of the amount and date of the distribution. Neither the estate nor any other person, including a beneficiary, may repay the loan of a deceased participant, nor can the funds be returned to the TSP.

(e) If, because of Board or TSP record keeper error, a TSP loan is declared a deemed distribution or loan offset under circumstances that make such a declaration inconsistent with this part, or inconsistent with other procedures established by the Board or TSP record keeper in connection with the TSP loan program, the distribution will be reversed. The participant will be provided an opportunity to reinstate loan payments or repay in full the outstanding balance on the loan.

[87 FR 31693, May 24, 2022]

### § 1655.16 Reamortization.

(a) When a participant's pay cycle changes for any reason, he or she must notify the TSP record keeper of the change in the form and manner prescribed by the TSP record keeper. Upon notification, the participant's loan will be reamortized to adjust the scheduled payment to an equivalent amount in the new pay cycle. If the new pay cycle results in fewer payments per year and the participant does not reamortize the loan, the loan may be declared a deemed distribution pursuant to § 1655.15(a)(1).

(b) Upon reamortization, the outstanding principal balance remains the same. Any accrued interest is paid off first before payments are applied to principal and current interest.

(c) The interest rate on a reamortized loan will be the same as the interest rate on the original loan.

[87 FR 31694, May 24, 2022]

### § 1655.17 Prepayment.

(a) A participant may repay a loan in full, without a penalty, at any time before the declaration of a deemed distribution or loan foreclosure under § 1655.15. Repayment in full means receipt by the TSP record keeper of a payment, by check or guaranteed funds

made payable to the Thrift Savings Plan or via loan direct debit repayments, of all principal and interest due on the loan.

(b) If a participant returns a loan check to the TSP record keeper, it will be treated as a repayment; however, additional interest may be owed, which, if not paid, could result in a deemed distribution. The loan, even though repaid, will also be taken into account in determining the maximum amount available for future loans, in accordance with § 1655.6(b).

(c) The amount outstanding on a loan can be obtained from the TSP website, the ThriftLine, or by a written request to the TSP record keeper.

[87 FR 31694, May 24, 2022]

### § 1655.18 Spousal rights.

(a) *Spouse of CSRS participant.* (1) Before a loan is disbursed to a CSRS participant, the TSP record keeper will send a notice to the participant's current spouse that the participant has applied for a loan.

(2) A CSRS participant may obtain an exception to the requirement described in paragraph (a)(1) of this section if the participant establishes, to the satisfaction of the Executive Director, that the spouse's whereabouts are unknown as described in paragraph (c) of this section.

(b) *Spouse of FERS or uniformed services participant.* (1) Before a loan agreement is approved for a FERS or uniformed services participant, the spouse must consent to the loan by signing the loan agreement.

(2) A FERS or uniformed services participant may obtain an exception to the requirement described in paragraph (b)(1) of this section if the participant establishes, to the satisfaction of the Executive Director, that:

(i) The spouse's whereabouts are unknown; or

(ii) Exceptional circumstances prevent the participant from obtaining the spouse's consent.

(c) *Exception to spousal requirements.* The procedures for obtaining an exception to the spousal requirements described in paragraphs (a)(1) and (b)(1) of this section are the same as the procedures described in 5 CFR part 1650, subpart G.

(d) *Certification of truthfulness.* By completing a loan request, the participant certifies, under penalty of perjury, that all information provided to the TSP record keeper during the loan process is true and complete, including statements concerning the participant's marital status, the spouse's email or physical address at the time the application is filed, or the current spouse's consent to the loan.

[68 FR 35515, June 13, 2003, as amended at 68 FR 74451, Dec. 23, 2003; 87 FR 31694, May 24, 2022]

#### **§ 1655.19 Effect of court order on loan.**

Upon receipt of a document that purports to be a qualifying retirement benefits court order, qualifying legal process relating to a participant's legal obligation to provide child support or to make alimony payments, or a qualifying child abuse order, the participant's TSP account will be frozen. After the account is frozen, no loan will be allowed until the account is unfrozen. The Board's procedures for processing court orders and legal processes are explained in 5 CFR part 1653.

#### **§ 1655.20 Residential loans.**

(a) A residential loan will be made only for the purchase or construction of the primary residence of the participant, or for the participant and his or her spouse, and for the amount required to close on the purchase. The participant must actually bear all or part of the cost of the purchase. If the participant purchases a primary residence with someone other than his or her spouse, only the portion of the purchase costs that is borne by the participant will be considered in making the loan. A residential loan will not be made for the purpose of paying off an existing mortgage or otherwise providing financing for a previously purchased primary residence.

(b) The participant's primary residence is his or her principal residence. A primary residence may include a house, a townhouse, a condominium, a share in a cooperative housing corporation, or a mobile home; a primary residence does not include a second home or vacation home. A participant cannot have more than one primary residence.

(c) Purchase of a primary residence means acquisition of the residence through the exchange of cash or other property or through the total construction of a new residence. A residential loan will not be made for a lease-to-buy option, unless the option to buy is being exercised and the documentation states that the funds are being used to purchase the primary residence. Construction of an addition to or the renovation of a residence or the purchase of land only does not constitute the purchase of a primary residence.

(d) The amount required to close on the purchase of a primary residence does not include points or loan origination fees charged for a loan. In addition, real estate taxes cannot be included.

(e) The documentation required for a loan under this section is as follows:

(1) For all purchases, except for construction, a signed sale/purchase contract/settlement offer or agreement or addendum; or

(2) For construction, a signed builder's agreement/contract; and

(3) For requests including closing costs and/or settlement charges, a loan estimate/worksheet/statement/closing disclosure from a mortgage company.

(f) The documentation provided under this section must meet the requirements set forth by the TSP record keeper.

[87 FR 31694, May 24, 2022]

#### **§ 1655.21 Loan fee.**

The TSP will charge a participant a \$50.00 loan fee when it disburses a general purpose loan and a \$100.00 loan fee when it disburses a residential loan and will deduct the applicable fee from the proceeds of the loan.

[87 FR 31695, May 24, 2022]

## **PART 1690—THRIFT SAVINGS PLAN**

### **Subpart A—General**

Sec.

1690.1 Definitions.

### **Subpart B—Miscellaneous**

1690.11 Plan year.

1690.12 Power of attorney.

1690.13 Guardianship and conservatorship orders.

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1690.14 Checks made payable to the Thrift Savings Plan

1690.15 Freezing an account—administrative holds.

AUTHORITY: 5 U.S.C. 8474.

SOURCE: 68 FR 35519, June 13, 2003, unless otherwise noted.

### Subpart A—General

#### § 1690.1 Definitions.

As used in this chapter:

*Agency automatic (1%) contributions* means any contributions made under 5 U.S.C. 8432(c)(1) and (c)(3). It also includes service automatic (1%) contributions made under 5 U.S.C. 8440e(e)(3)(A).

*Agency matching contributions* means any contributions made under 5 U.S.C. 8432(c)(2). It also includes service matching contributions under 5 U.S.C. 8440e(e)(3)(B).

*Basic pay* means basic pay as defined in 5 U.S.C. 8331(3). For CSRS and FERS employees, it is the rate of pay used in computing any amount the individual is otherwise required to contribute to the Civil Service Retirement and Disability Fund as a condition of participating in the Civil Service Retirement System or the Federal Employees' Retirement System, as the case may be. For members of the uniformed services, it is basic pay payable under 37 U.S.C. 204 and compensation received under 37 U.S.C. chapter 206.

*Beneficiary participant* means a spouse beneficiary for whom the TSP maintains a beneficiary participant account pursuant to 5 U.S.C. 8433(e) and in accordance with 5 CFR 1651.19.

*Beneficiary participant account* means an account maintained pursuant to 5 U.S.C. 8433(e) and in accordance with 5 CFR 1651.19. The term includes both civilian beneficiary participant accounts and uniformed services beneficiary participant accounts.

*Board* means the Federal Retirement Thrift Investment Board established under 5 U.S.C. 8472.

*Bonus contributions* means contributions made by a participant from any part of any special or incentive pay that the participant receives under chapter 5 of title 37.

*BRS* means the blended retirement system as established by the National

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Defense Authorization Act for FY 2016, Public Law 114–92, secs. 631–635 (2015).

*BRS participant* means a TSP participant covered by BRS.

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

*Catch-up contributions* means TSP contributions from basic pay that are made by participants age 50 and over, which exceed the elective deferral limit of 26 U.S.C. 402(g) and meet the requirements of 5 CFR 1600.23.

*Civilian account* means a TSP account to which contributions have been made by or on behalf of a civilian employee.

*Civilian beneficiary participant account* means a beneficiary participant account that is established with a death benefit payment from a TSP account to which contributions were made by or on behalf of a civilian employee.

*Civilian employee* or civilian participant means a TSP participant covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or equivalent retirement plan.

*Contribution election* means a request by an employee to start contributing to the TSP, to change the amount or type of contributions (traditional or Roth) made to the TSP each pay period, or to terminate contributions to the TSP.

*Court of competent jurisdiction* means the 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).

*CSRS* means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, or any equivalent Federal retirement system.

*CSRS employee* or *CSRS participant* means any employee or participant covered by CSRS.

*Date of appointment* means the effective date of an employee's accession as established by the current employing agency.

*Day* means calendar day, unless otherwise stated.

*Eligible employer plan* means a plan qualified under I.R.C. section 401(a) (26 U.S.C. 401(a)), including a section 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money

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purchase plan; an annuity plan described in I.R.C. section 403(a) (26 U.S.C. 403(a)); an annuity contract described in I.R.C. section 403(b) (26 U.S.C. 403(b)); and an eligible deferred compensation plan described in I.R.C. section 457(b) (26 U.S.C. 457(b)) which is maintained by an eligible employer described in I.R.C. section 457(e)(1)(A) (26 U.S.C. 457(e)(1)(A)).

*Employee contributions* means traditional contributions and Roth contributions. Employee contributions are made at the participant's election pursuant to §1600.12 and are deducted from compensation paid to the employee.

*Employer contributions* means agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1), 8432(c)(3), or 5 U.S.C. 8440(e)(3)(A) and agency matching contributions under 5 U.S.C. 8432(c)(2) or 5 U.S.C. 8440(e)(3)(B).

*Employing agency* means the organization (or the payroll office that services the organization) that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual. It includes the employing service for members of the uniformed services.

*Executive Director* means the Executive Director of the Federal Retirement Thrift Investment Board under 5 U.S.C. 8474.

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

*Federal civilian retirement system* means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, or any equivalent Federal civilian retirement system.

*FERS* means the Federal Employees' Retirement System established by 5 U.S.C. chapter 84 or any equivalent Federal retirement system.

*FERS employee* or *FERS participant* means any employee or TSP participant covered by FERS.

*FERSA* means the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The provisions of FERSA that govern the TSP are codified primarily in subchapters III and VII of Chapter 84 of Title 5, United States Code.

*Former spouse* means (as defined at 5 U.S.C. 8401(12)) the former spouse of a TSP participant if the participant performed at least 18 months of civilian service creditable under 5 U.S.C. 8411 as an employee or member, and if the participant and former spouse were married to one another for at least nine months.

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

*G Fund interest rate* means the interest rate computed under 5 U.S.C. 8438(e)(2).

*I Fund* means the International Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(E).

*In-service withdrawal request* means a properly completed withdrawal election for either an age-based in-service withdrawal under 5 CFR 1650.41 or a financial hardship in-service withdrawal under 5 CFR 1650.42.

*Investment election* means the participant's apportionment of his or her future contributions, loan payments, and rollovers from eligible employer plans or traditional IRAs among the TSP core funds.

*L Fund* means the Lifecycle Funds described in 5 CFR part 1601, subpart E.

*PEBD* means the pay entry base date (or pay entry basic date for some services), which is determined by each uniformed service and is used to calculate how much time in service a member has for the purpose of determining longevity pay rates.

*Plan participant* or *participant* means any person with an account (other than a beneficiary participant account) in the Thrift Savings Plan or who would have an account (other than a beneficiary account) but for an employing agency error.

*Post-employment distribution request* means a properly completed distribution withdrawal election under 5 CFR 1650.24.

*Posting* means the process of crediting or debiting transactions to an individual account.

*Posting date* means the date on which a transaction is credited or debited to a participant's account.

*Ready Reserve* means those members of the uniformed services described at 10 U.S.C. 10142.

*Regular employee contributions* mean TSP contributions from taxable basic pay that are subject to the Internal Revenue Code limits on elective deferrals and contributions to qualified plans (26 U.S.C. 402(g) and 415(c), respectively), and the maximum contribution percentage limits of 5 U.S.C. 8351(b), 5 U.S.C. 8432(a), or 5 U.S.C. 8440f(a).

*Roth 5 year non-exclusion period* means the period of five consecutive calendar years beginning on the first day of the calendar year in which the participant's Roth initiation date occurs. It is the period described in section 402A(d)(2)(B) of the Internal Revenue Code.

*Roth balance* means the sum of:

- (1) Roth contributions and associated earnings; and
- (2) Amounts rolled over to the TSP from a Roth account maintained by an eligible employer plans and earnings on those amounts.

*Roth contributions* means employee contributions made to the participant's Roth balance which are authorized by 5 U.S.C. 8432d. Roth contributions may be deducted from taxable pay on an after-tax basis or from pay exempt from taxation under 26 U.S.C. 112.

*Roth initiation date* means

- (1) The earlier of:
  - (i) The actual date of a participant's first Roth contribution to the TSP;
  - (ii) The "as of" date or attributable pay date (as defined in §1605.1 of this subchapter) that established the date of the participant's first Roth contribution to the TSP; or
  - (iii) The date used, by a plan from which the participant directly rolled over Roth money into the TSP, to measure the participant's Roth 5 year non-exclusion period.
- (2) If a participant has a civilian account and a uniformed services account, the Roth initiation date for both accounts will be the same.

*Roth IRA* means an individual retirement plan described in Internal Revenue Code section 408A (26 U.S.C. 408A).

*S Fund* means the Small Capitalization Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(D).

*Separation from Government service* means generally the cessation of employment with the Federal Govern-

ment. For civilian employees it means termination of employment with the U.S. Postal Service or with any other employer from a position that is deemed to be Government employment for purposes of participating in the TSP for 31 or more full calendar days. For uniformed services members, it means the discharge from active duty or the Ready Reserve or the transfer to inactive status or to a retired list pursuant to any provision of title 10 of the United States Code. The discharge or transfer may not be followed, before the end of the 31-day period beginning on the day following the effective date of the discharge, by resumption of active duty, an appointment to a civilian position covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or an equivalent retirement system, or continued service in or affiliation with the Ready Reserve. Reserve component members serving on full-time active duty who terminate their active duty status and subsequently participate in the drilling reserve are said to continue in the Ready Reserve. Active component members who are released from active duty and subsequently participate in the drilling reserve are said to affiliate with the Ready Reserve.

*Share* means a portion of a TSP Fund. Transactions are posted to accounts in shares at the share price of the date the transaction is posted. The number of shares for a transaction is calculated by dividing the dollar amount of the transaction by the share price of the appropriate date for the fund in question. The number of shares is computed to four decimal places.

*Share price* means the value of a share in a TSP Fund. The share price is calculated separately for each fund for each business day. The share price includes the cumulative net earnings or losses for each fund through the date the share price is calculated.

*Source of contributions* means traditional contributions, Roth contributions, agency automatic (1%) contributions, or agency matching contributions. All amounts in a participant's account are attributed to one of these four sources. Catch-up contributions,

rollovers, and loan payments are included in the traditional contribution source or the Roth contribution source.

*Special or incentive pay* means pay payable as special or incentive pay under 37 U.S.C. chapter 5.

*Spouse* means the person to whom a TSP participant is married on the date he or she signs a form on which the TSP requests spousal information. Where a participant is seeking to reclaim an account that has been forfeited pursuant to 5 CFR 1650.16, spouse means the person to whom the participant was married on the withdrawal deadline. For purposes of 5 CFR 1651.5 and 5 CFR 1651.19, spouse means the person to whom the participant was married on the date of the participant's death. A TSP participant 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 determine whether a TSP participant is married.

*Tax-deferred balance* means the sum of:

- (1) All contributions and rollovers in a participant's traditional balance that would otherwise be includible in gross income if paid directly to the participant and earnings on those amounts; and

- (2) Earnings on any tax-exempt contributions in the traditional balance. The tax-deferred balance does not include tax-exempt contributions.

*Tax-deferred contributions* means employee contributions made to a participant's traditional balance that would otherwise be includible in gross income if paid directly to the participant.

*Tax-exempt balance* means the sum of tax-exempt contributions within a participant's traditional balance. It does not include earnings on such contributions. Only a traditional balance in a uniformed services participant account or a uniformed services beneficiary participant account may contain a tax-exempt balance.

*Tax-exempt contributions* means employee contributions made to the participant's traditional balance from pay which is exempt from taxation by 26 U.S.C. 112. The Federal income tax exclusion at 26 U.S.C. 112 is applicable to

compensation for active service during a month in which a uniformed service member serves in a combat zone. The term "tax-exempt contributions" does not include contributions made to the participant's Roth balance from pay which is exempt from taxation by 26 U.S.C. 112.

*Thrift Savings Fund or Fund* means the Fund described in 5 U.S.C. 8437.

*Thrift Savings Plan, TSP, or Plan* means the Thrift Savings Plan established under subchapters III and VII of the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8351 and 8401-8479.

*ThriftLine* means the automated voice response system by which TSP participants may, among other things, access their accounts by telephone. The ThriftLine can be reached at (877) 968-3778.

*Traditional balance* means the sum of:

- (1) Tax-deferred contributions and associated earnings;
- (2) Tax-deferred amounts rolled over into the TSP and associated earnings;
- (3) Tax-exempt contributions and associated earnings;
- (4) Agency matching contributions and associated earnings;
- (5) Agency automatic (1%) contributions and associated earnings.

*Traditional contributions* means tax-deferred employee contributions and tax-exempt employee contributions made to the participant's traditional balance.

*Traditional IRA* means an individual retirement account described in I.R.C. section 408(a) (26 U.S.C. 408(a)) and an individual retirement annuity described in I.R.C. section 408(b) (26 U.S.C. 408(b)) (other than an endowment contract).

*TSP core fund* means an investment fund established pursuant to 5 U.S.C. 8438(b)(1)(A)-(E) and (c)(2).

*TSP record keeper* means the entities the Board engages to perform record keeping and administration services for the Thrift Savings Plan.

*TSP record keeper* means the entities the Board engages to perform record keeping and administration services for the Thrift Savings Plan.

*TSP website* means the internet location(s) maintained by the TSP and/or