

have been made. However, when the new record keeping system is implemented, it will contain only three and one-half years of converted contribution allocation history and contribution records for each participant. Therefore, if the TSP corrects an error that occurred more than three years before implementation of the new system, the TSP will compute breakage based on a calculated rate of investment return derived by the record keeping system, instead of basing breakage on the participant's contribution allocation as of the time of the error. The calculated rate of return will be either the Government Securities Investment Fund (G Fund) rate, or the average of the rates of return for all of the TSP investment funds, whichever rate is greater. The interim rule codifies this procedure in § 1605.2 and § 1605.13.

In addition, because the TSP will not have a record of the participant's contribution history before January 1, 2000, it will be unable to determine the actual present value of an erroneous contribution made to a participant's account before January 1, 2000. Therefore, as explained in interim § 1605.12 and § 1605.14, the TSP will not process an agency-submitted negative adjustment to remove erroneous contributions from a participant's account if the contributions were made before January 1, 2000.

Agency Submission of Contribution and Loan Payments

Employing agencies are required to submit contributions and loan payments to the TSP record keeper within 30 days after the pay date associated with their submissions. Contributions and loan payments submitted beyond the 30-day period are subject to lost earnings. Proposed § 1605.15(c) contemplated reducing that time period to 2 days. However, § 1605.15(c) of the interim rule retains the 30-day period; therefore, contributions and loan payments submitted more than 30 days after the pay date associated with the agency's submission will be subject to breakage.

Hardship In-Service Withdrawals

Under 5 U.S.C. 8433(h)(1)(B), a participant who is still employed by the Federal Government can obtain a financial hardship withdrawal from the TSP to meet certain specified financial obligations. Hardship withdrawals are governed by 5 CFR part 1650. The regulations in effect under the old record keeping system required a participant to document income and expenses on a hardship withdrawal

application, which the TSP would use to calculate how much the participant could withdraw from his or her account. This procedure was retained by proposed §§ 1650.32 and 1650.42. However, interim §§ 1650.32 and 1650.42 require the participant to perform the calculation with the use of a worksheet provided with the hardship withdrawal application, and to request a withdrawal amount based on that calculation.

Death Benefits

If the TSP learns that a separated participant died after making a withdrawal request, the TSP will not process the withdrawal. Instead, the TSP will pay the funds as a death benefit according to the order of precedence found at 5 U.S.C. 8424(d). If the participant chose to withdraw his or her account as a joint life annuity or an annuity with a refund or 10-year option, the TSP will pay the account to the joint annuitant or to the beneficiary or beneficiaries of the annuity as designated by the participant.

The TSP considered a change to this process in the proposed rule. Specifically, proposed § 1651.2(b) and (c) stated that the TSP would give effect to a participant's withdrawal request in limited circumstances. The Board has decided to retain the current policy because of issues regarding the negotiability of a payment made to a deceased participant.

TSP Loans

This interim rule codifies two new loan processes not discussed in the proposed rule. Under the old record keeping system, if a participant missed TSP loan payments, but resumed the payments within 90 days of the first missed payment, the missed payments would be added to the end of the participant's loan term. If the participant resumed making loan payments more than 90 days after the first missed payment, the participant was required to reamortize the loan.

Proposed § 1655.14(e) stated that a participant who missed loan payments would be required to make up that missed payment by the end of the next calendar quarter, or the TSP would declare the loan a taxable distribution. Proposed § 1655.14(f) also provided that interest would not accrue on a missed loan payment, as long as the participant made up the payment within a specified time.

Section 1655.14(e) of the interim rule instead requires a participant to become current in his or her loan by making up all missed payments by the end of the next calendar quarter (even those

payments missed in the second calendar quarter). In addition, interim § 1655.14(f) provides that interest will accrue on all missed loan payments from the time they were due.

Funds Returned to the TSP as Undeliverable

This TSP is adopting new procedures for the processing of funds that are disbursed from the TSP but returned as undeliverable. The new procedures are codified by the interim rule at § 1650.5 (regarding withdrawals), § 1651.14(g) (court ordered payments), § 1653.5(k) (death benefits), and § 1655.13(e) and § 1655.14(b) (loans). If a withdrawal, a refunded loan overpayment, court-ordered payment, or death benefit payment is returned to the TSP as undeliverable, the TSP will attempt to locate the participant or payee in order to reissue the funds. If the TSP cannot locate the participant or payee within 60 days, the funds will be forfeited to the TSP. The participant or payee may reclaim the funds, but investment earnings will not accrue on them after they are first disbursed from the TSP. In the case of a returned loan disbursement, the TSP will use the returned proceeds to repay the participant's loan if the TSP is unable to locate the participant and reissue the loan.

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 employees and former employees of the Federal Government.

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, Public Law 104-4, section 201, 109 Stat. 48, 64, 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 202, 109 Stat. 48, 64-65, is not required.