

among investment funds in the same manner as the original contribution. The current value of the contributions that the agency seeks to remove by the negative adjustment will be calculated in accordance with the following rules:

(1) If the attributable pay date for the erroneous contribution is on or before the date TSP accounts were converted to shares (and after December 31, 2000), the TSP will:

(i) For each source of contributions, determine the dollar value of the amount to be removed from each investment fund, as of the last monthly valuation date before TSP accounts were converted to shares, by crediting the contribution with TSP investment fund returns;

(ii) For each source of contributions and each investment fund, convert the dollar value determined in paragraph (c)(1)(i) of this section to shares; and

(iii) Multiply the price per share for the date the adjustment is posted by the number of shares calculated in paragraph (c)(1)(ii) of this section.

(2) If the attributable pay date of the negative adjustment is after the date TSP accounts were converted to shares, the TSP will:

(i) For each source and type of contributions and for each investment fund, determine the number of shares that represent the amount of the contribution to be removed from the investment fund based upon the share price on the attributable pay date; and

(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.

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(f) * * *

(1) If multiple negative adjustments for the same attributable pay date for a participant are posted on the same business day, the amount removed from the participant's account and used to offset TSP administrative expenses or returned to the employing agency will be determined separately for each adjustment. Earnings and losses for erroneous contributions made on different dates will not be netted against each other. In addition, for a negative adjustment for any attributable pay date, gains and losses from different sources of contributions or different investment funds will not be netted against each other. Instead, for each attributable pay date each source of contributions and each investment fund will be treated separately for purposes of these calculations;

(2) The amount computed by application of the rules in this section will be removed from the participant's

account *pro rata* from all investment funds, by source, based on the allocation of the participant's most recent account balance; and

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■ 24. Section 1605.13 is amended by removing paragraph (a)(4) and by revising paragraphs (a)(3), (b)(3), and (d) to read as follows:

§ 1605.13 Back pay awards and other retroactive pay adjustments.

(a) * * *

(3) All makeup contributions under this paragraph (a) and associated breakage will be invested according to the participant's contribution allocation on the posting date. However, breakage will be calculated using the breakage rule described in § 1605.2 for the G Fund share prices and, if applicable, rates of return requested by the participant, unless the court or other tribunal with jurisdiction over the back pay case orders otherwise.

(b) * * *

(3) All makeup contributions under this paragraph (b) and associated breakage will be posted to the participant's account based on the participant's contribution allocation on the posting date. Breakage will be calculated either of two ways:

(i) If the retroactive adjustment relates to an "as of" date after December 31, 2000, the TSP will use the participant's contribution allocation on the "as of" date; or

(ii) If the retroactive adjustment relates to an "as of" date on or before December 31, 2000, the rate of return will be either the G Fund rate or the average of the rates of return for all of the TSP investment funds, whichever rate is greater.

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(d) *Prior withdrawal of TSP account.* If a participant has withdrawn his or her TSP account other than by purchasing an annuity, and the separation from Government employment upon which the withdrawal was based is reversed, resulting in reinstatement of the participant without a break in service, the participant will have the option to restore the amount withdrawn to his or her TSP account. The right to restore the withdrawn funds will expire if the participant does not provide notice to the Board within 90 days of reinstatement. If the participant returns the funds that were withdrawn, the number of shares purchased will be determined by using the share price of the applicable investment fund on the posting date. No breakage will be incurred on any restored funds.

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■ 25. Section 1605.14 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 1605.14 Misclassified retirement system coverage.

(a) If a CSRS participant is misclassified by an employing agency as a FERS participant, when the misclassification is corrected:

(1) Employee contributions that exceed the applicable contribution percentage for the pay period(s) involved may remain in the participant's account. The participant may request the return of excess employee contributions made after December 31, 2000; those contributed on or before December 31, 2000, must remain in the participant's account. If the participant requests a refund of excess employee contributions, the employing agency must submit a negative adjustment records to remove these funds, under the procedure described in § 1605.12.

(2) The TSP will forfeit all agency contributions that were made to a CSRS participant's account. An employing agency may submit a negative adjustment record to request the return of an erroneous contribution that has been in the participant's account for less than one year.

(b) If a FERS participant is misclassified by an employing agency as a CSRS participant, when the misclassification is corrected:

(1) The participant may not elect to have the contributions made while classified as CSRS removed from his or her account;

(2) The participant may, under the rules of § 1605.11, elect to make up contributions that he or she would have been eligible to make as a FERS participant during the period of misclassification;

(3) The employing agency must, under the rules of § 1605.11, make agency automatic (1%) contributions and agency matching contributions on employee contributions that were made while the participant was misclassified;

(4) If the retirement coverage correction is a FERCCA correction, the employing agency must submit makeup employee contributions on late payment records. The participant is entitled to breakage (or lost earnings) on contributions from all three sources. Breakage (or lost earnings) will be calculated pursuant to § 1605.2. If the retirement coverage correction is not a FERCCA correction, the employing agency must submit makeup employee contributions on current payroll records; in such cases, the employee is not entitled to breakage. Agency