

makeup contributions may be submitted on either current or late payment records; and

(5) If employee contributions were made up before the Office of Personnel Management implemented its regulations on FERCCA correction, and the correction is considered to be a FERCCA correction, an amount to replicate TSP lost earnings will be calculated by the Office of Personnel Management pursuant to its regulations and provided to the employing agency for transmission to the TSP record keeper.

\* \* \* \* \*

■ 26. A new § 1605.15 is added to read as follows:

**§ 1605.15 Reporting and processing late contributions and late loan payments.**

(a) The employing agency must promptly submit late contributions to the TSP record keeper on behalf of the affected participant on late payment records as soon as the error is discovered. For each pay date involved, the employing agency must submit a separate record showing the “as of” date for the contributions. Breakage for both employee and agency contributions will be calculated, posted, and charged to the agency or forfeited to the TSP in accordance with § 1605.2.

(b) If an employing agency deducts loan payments from a participant's pay, but fails to submit those payments to the TSP for the pay date for which they were deducted (or submits them in a manner that prevents them from being timely credited to the participant's account), the employing agency will be responsible for paying breakage using the procedure described in § 1605.2. The loan payment record must contain the “as of” date for which the loan payment was deducted.

(c) All contributions or loan payments on payment records contained in a payroll submission that was received from an employing agency more than 30 days after the pay date associated with the payroll submission (as reported on the appropriate journal voucher), will be subject to breakage calculated, posted, and charged to the employing agency (or forfeited to the TSP) in accordance with § 1605.2. The employing agency will be apprised of the breakage due for each record reported on the late submission.

**PART 1606—LOST EARNINGS ATTRIBUTABLE TO EMPLOYING AGENCY ERRORS**

■ 27. The authority citation for part 1606 continues to read as follows:

**Authority:** 5 U.S.C. 8432a, 8474(b)(3) and (c)(1). Section 1606.5 also issued under Title II, Pub. L. 106–265, 114 Stat. 770.

**Subpart A—General Provisions**

■ 28. Section 1606.1 is revised to read as follows:

**§ 1606.1 Definitions.**

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) Definitions generally applicable to employing agency errors and their correction are set forth at 5 CFR 1605.1.

(c) As used in this part:

*Lost earnings record* means a data record containing information enabling the TSP system to compute lost earnings.

■ 29. Section 1606.2 is revised to read as follows:

**§ 1606.2 Purpose.**

(a) With the implementation of the TSP's daily valued record keeping system, losses suffered by participants arising out of employing agency errors will be corrected by calculating and posting breakage to an affected participant's account. Breakage will be calculated as described in 5 CFR 1605.2. However, in some cases, an employing agency may have submitted contributions subject to lost earnings before implementation of the daily valued record keeping system, but did not submit the requisite lost earnings record. Therefore, until September 1, 2003, employing agencies may submit separate lost earnings records for makeup and late contributions submitted before implementation of the new record keeping system. All payments posted after implementation of the new record keeping system are covered under 5 CFR part 1605.

(b) After August 31, 2003, the use of lost earning records will be discontinued.

■ 30. Section 1606.4 is amended by revising paragraph (c) to read as follows:

**§ 1606.4 Applicability.**

\* \* \* \* \*

(c) As explained in § 1606.2, this part applies to errors that occurred before September 1, 2003.

\* \* \* \* \*

**Subpart B—Lost Earnings Attributable to Delayed or Erroneous Contributions**

■ 31. Section 1606.5 is amended by revising paragraph (a)(4) to read as follows:

**§ 1606.5 Failure to timely make or deduct TSP contributions when participant received pay.**

(a) \* \* \*

(4) The lost earnings will be posted to the participant's account based on the contribution allocation in effect on the posting date.

\* \* \* \* \*

**§§ 1606.7 and 1606.8 [Removed]**

■ 32. Sections 1606.7 and 1606.8 are removed.

**Subpart C—Lost Earnings Not Attributable to Delayed or Erroneous Contributions**

■ 33. Section 1606.9 is removed.

**Subpart E—Processing Lost Earnings Records**

■ 34. Section 1606.13 is revised to read as follows:

**§ 1606.13 Calculation and crediting of lost earnings.**

(a) Lost earnings records submitted pursuant to this part will be processed daily by the TSP record keeper.

(b) In calculating lost earnings attributable to a lost earnings record, earnings and losses for different sources of contributions or investment funds within a source will not be offset against each other.

(c) Notwithstanding any other provision of this part, where the net lost earnings computed in accordance with this part on any lost earnings record are less than zero within a source of contributions, the employing agency will not be credited with respect to that source of contributions. The amount of the negative lost earnings will be removed from the participant's account and applied against TSP administrative expenses.

**Subpart F—[Removed]**

■ 35. Subpart F of part 1606 is removed.

■ 36. Part 1640 is revised to read as follows:

**PART 1640—PERIODIC PARTICIPANT STATEMENTS**

Sec.

- 1640.1 Definitions.
- 1640.2 Information regarding account.
- 1640.3 Statement of individual account.
- 1640.4 Account transactions.
- 1640.5 Investment fund information.
- 1640.6 Methods of providing information.

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