

### § 1655.13

### 5 CFR Ch. VI (1–1–10 Edition)

(c) For loans submitted on paper and those that cannot be completed on the TSP Web site, the TSP record keeper must receive the completed loan agreement (including any required supporting documentation) before the expiration date stated on the loan agreement or the agreement will not be processed.

(d) The signed loan agreement must be accompanied by:

(1) In the case of a residential loan, supporting materials that document the purchase or construction of the residence and the amount requested (as described in § 1655.20); and

(2) Any other information that the Executive Director may require.

(e) A participant may request that the loan be disbursed by direct deposit to a checking or savings account maintained by the participant in a financial institution by properly completing the required information on the loan agreement or on the TSP Web site, if the loan request can be completed on the Web site.

[68 FR 35515, June 13, 2003, as amended at 70 FR 32218, June 1, 2005]

#### § 1655.13 Loan approval and issuance.

(a) When the completed loan agreement is signed electronically or returned by the participant to the TSP record keeper, together with any documentation required to be submitted, the loan will be initially approved or denied by the TSP record keeper based upon the requirements of this part, including the following conditions:

(1) The participant has signed the promise to repay the loan, has agreed to repay the loan through payroll deductions, and has certified that the information given is true and complete to the best of the participant's knowledge;

(2) Processing of the loan would not be prohibited by § 1655.19 relating to court orders;

(3) The spouse of a FERS or uniformed services participant has consented to the loan or, if the spouse's whereabouts are unknown or exceptional circumstances make it inappropriate to secure the spouse's consent, an exception to the spousal requirement described in § 1655.18 has been granted;

(4) The spouse of a CSRS participant has been given notice or, if the spouse's whereabouts are unknown, an exception to the spousal requirement described in § 1655.18 has been granted;

(5) When a paper agreement is required, the completed loan agreement, including all required supporting documentation, was received by the TSP record keeper before the expiration date specified on the loan agreement; and

(6) The participant has met any other conditions that the Executive Director may require.

(b) If approved, the loan will be issued unless:

(1) The participant's employing agency has reported the participant's separation from Government service;

(2) The TSP receives written notice that the participant has died;

(3) The participant's account balance on the loan issue date does not contain sufficient employee contributions and associated earnings to make a loan of at least \$1,000;

(4) A hold on the account is processed before the loan is disbursed; or

(5) A taxable distribution on an outstanding loan is declared before the new loan is issued.

(c) If the loan is otherwise acceptable but the amount available to borrow is less than the requested amount (but is at least \$1,000), the loan will be issued in the maximum amount available at the time of the disbursement. In such a case, the periodic payment amount will remain the same and the loan term may be shortened.

(d) The loan issue date is considered to be the date the loan was made.

(e) If a loan disbursement is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 60 days, the TSP will repay the loan with the returned loan proceeds.

#### § 1655.14 Loan payments.

(a) Loan payments must be made through payroll deduction in accordance with the loan agreement. Once loan payments begin, the employing agency cannot terminate the payroll deductions at the employee's request, unless the TSP instructs it to do so.

(b) The participant may make additional payments by mailing a personal check or guaranteed funds to the TSP record keeper. If the TSP receives a payment that repays the outstanding loan amount and overpays the loan by \$10.00 or more, the overpayment will be refunded to the participant. Overpayments of less than \$10 will be applied to the participant's account and will not be refunded. If a loan overpayment refund is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 60 days, the TSP will forfeit the overpayment refund to the Plan. The participant can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

(c) The initial payment on a loan is due on or before the 60th day following the loan issue date. Interest accrues on the loan from the date of issuance.

(d) Subsequent payments are due at regular intervals as prescribed in the loan agreement, or most recent amortization, according to the participant's pay cycle.

(e) If a payment is not made when due, the TSP will notify the participant of the missed payment and the participant must make up the payment in full. 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 will declare the loan to be a taxable distribution in accordance with §1655.15. The participant's make-up payment must be in the form of a personal check or guaranteed funds.

(f) Interest will accrue on all missed payments and will be included in the calculation of any taxable distribution subsequently declared in accordance with §1655.15. Interest will also accrue on payments missed while a participant is in nonpay status.

[68 FR 35515, June 13, 2003, as amended at 72 FR 53414, Sept. 19, 2007]

#### § 1655.15 Taxable distributions.

(a) The Board may declare any unpaid loan principal, plus unpaid interest, to be a taxable distribution from the Plan if:

(1) A participant is in a confirmed nonpay status for a period of one year or more, has not advised the TSP 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) A participant separates from Government service and does not 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;

(3) The TSP record keeper advises the participant that there are missing payments and the participant fails to make (by personal check or guaranteed funds) a direct payment of the entire missing amount or repayment in full by the deadline established in accordance with §1655.14(e);

(4) Any material information provided in accordance with §1655.10, §1655.12, or §1655.18 is found to be false;

(5) With the exception of a loan described in 5 CFR 1620.45, the loan is not repaid in full (including interest due) within five years, in the case of a general purpose loan, or within 15 years, in the case of a residential loan, from the loan issue date; or

(6) The participant dies.

(b) If a taxable distribution occurs in accordance with paragraph (a) of this section, the Board will notify the participant of the amount and date of the distribution. The Board will report the distribution to the Internal Revenue Service as income for the year in which it occurs. That portion of a loan that represents a uniformed services participant's contributions from pay subject to the combat zone tax exclusion will not be included in this calculation.

(c) If a participant dies and a taxable distribution occurs in accordance with paragraph (a) of this section, the Board 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.

(d) If, because of Board or TSP record keeper error, a TSP loan is declared a