

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**5 CFR Part 1601****Participant Choices of Investment Funds**

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rules; amendment.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing an amendment to final rules on participants' choices of Thrift Savings Plan (TSP) investment funds. The amendment has the effect of eliminating the automatic transfer to the Government Securities Investment (G) Fund of the accounts of participants who begin to withdraw their accounts as a series of equal payments. The amendment also makes participants who are receiving their accounts as a series of equal payments eligible to make interfund transfers pursuant to the same rules applicable to all other TSP participants.

EFFECTIVE DATE: This amendment is effective September 16, 1995.

FOR FURTHER INFORMATION CONTACT: Questions concerning this amendment may be addressed to David L. Hutner, Federal Retirement Thrift Investment Board, 1250 H Street NW., Washington, D.C. 20005, (202) 942-1661.

SUPPLEMENTARY INFORMATION: Interim rules governing participants' choices of investment funds were originally published in the **Federal Register** on March 29, 1990, (55 FR 11880) as an amendment to title 5 of the Code of Federal Regulations, adding Part 1601, Participants' Choice of Investment Funds. Revised interim rules were published in the **Federal Register** at 56 FR 592 on January 7, 1991, primarily to implement section 3 of the Thrift Savings Plan Technical Amendments Act of 1990 (TSPTAA), which removed investment restrictions that had been in place prior to the effective date of the TSPTAA. On December 28, 1994, the Board published proposed amendments to the interim rules in the **Federal Register** (59 FR 66796) setting forth changes in the procedures by which TSP participants may make, change, or cancel interfund transfer requests. The Board did not receive any comments on the proposed amendments. On May 26, 1995, the December 28, 1994, proposed amendments to the interim rules were withdrawn and replaced by new proposed amendments (60 FR 27908). No comments on the new proposed amendments were received, and final

rules were published on July 17, 1995 (60 FR 36630). However, a proposal to remove investment restrictions from the accounts of participants who are receiving equal payments (which was included in the May 26 proposal) was deleted from the final rules because the technical changes necessary to accomplish that procedure had not been completed. It was stated in the preamble to the final rules that when those technical changes were completed, the Board intended to amend the regulations to eliminate the investment restrictions. The required technical changes will be completed by October 1995. Accordingly, these amendments are designed to eliminate the investment restrictions that have previously applied to participants receiving equal payments.

There are two aspects to the investment restrictions applicable to participants receiving equal payments, both of which are incorporated in 5 CFR 1601.4(c). First, upon commencement of withdrawal of a participant's account through a series of equal payments, the participant's entire account balance is automatically transferred to the G Fund. Second, participants receiving withdrawals by a series of equal payments are not permitted to make interfund transfers out of the G Fund. The present amendment eliminates both restrictions. Thus, as of the effective date of the amendment, participants who are already in equal payment status will be eligible to make interfund transfer requests to be effective October 31, 1995.

The final automatic transfer to the G Fund will be effective September 30, 1995. Participants whose first equal payment is effective October 31, 1995, or later, will not have their accounts automatically transferred to the G Fund. Participants whose first equal payment is issued (in November) effective October 31, 1995, will also be eligible to request an interfund transfer effective as of that date.

Participants whose first equal payment is issued (in November) effective October 31, 1995, will receive a notice advising them of their ability to make interfund transfer requests. Participants who request equal payment withdrawals commencing in subsequent months will similarly be notified that they may make interfund transfers while they are receiving equal payments.

There will also be a one-time notice issued in mid-September 1995 to participants who are already receiving equal payments. The participants will be advised that beginning September 16, 1995, they will be eligible to make

interfund transfer requests. Their first interfund transfer opportunity will be for interfund transfers effective October 31, 1995.

In order to make an interfund transfer effective October 31, 1995, the interfund transfer request must be received by October 16, 1995. On September 16, 1995, the TSP recordkeeper will begin accepting interfund transfer requests for transfers effective October 31, 1995, in accordance with the ordinary rules for processing interfund transfer requests that are set forth in this part.

Regulatory Flexibility Act

I will certify that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), (d)(1) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these amendments effective in less than 30 days. These amendments remove restrictions on TSP participants' ability to choose the investment funds in which their accounts will be invested. Moreover, the substantive provision of this amendment was originally included in proposed amendments published in the **Federal Register** (60 FR 27908) on May 26, 1995. Although the final rules published on July 17, 1995, deleted the substantive provision of the present amendment for the reasons stated in the preamble to the final rules (60 FR 36630), no comments were received during the 52 days the proposal was outstanding. Accordingly, I find that publication of these amendments in proposed form is unnecessary.

List of Subjects in 5 CFR Part 1601

Employee benefit plans, Government employees, Retirement, Pensions.

Dated: September 11, 1995.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

Accordingly, 5 CFR Part 1601 is amended as follows:

PART 1601—PARTICIPANTS' CHOICES OF INVESTMENT FUNDS

1. The authority citation for Part 1601 continues to read as follows:

Authority: 5 U.S.C 8351, 8438, 8474 (b)(5) and (c)(1).

§ 1601.4 [Amended]

2. Section 1601.4 is amended by removing paragraph (c).

[FR Doc. 95-22868 Filed 9-13-95; 8:45 am]

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