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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1651

Aged Beneficiary Designation Forms

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final Rule.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) amends its regulations to provide that a beneficiary designation form is valid only if it is received by the TSP record-keeper not more than one year after the date of the participant's signature.

DATES: This rule is effective on July 14, 2014.

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at 202-942-1645.

SUPPLEMENTARY INFORMATION: The Agency administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for

private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

Background

Prior to 1995, active Federal employees submitted TSP beneficiary designation forms to the personnel office at their employing agency. Upon a participant's death or separation from service, the employing agency would forward the participant's beneficiary designation form to the TSP record-keeper.

Beginning on January 1, 1995, the Agency required all TSP participants to mail or fax beneficiary designation forms directly to the TSP record-keeper. In addition to requiring all participants to submit beneficiary designation forms directly to the TSP record-keeper, the new policy of direct receipt by the TSP record-keeper required employing agencies to search their personnel records and forward all beneficiary designation forms then in their possession to the TSP record-keeper immediately. The TSP communicated the new policy in two bulletins sent to agency representatives and in three separate mailings sent directly to participants.

The TSP codified the policy of direct receipt by the TSP record-keeper in regulations on June 13, 1997 (62 FR 32426). All beneficiary designation forms in an employing agency's possession should have been forwarded to the TSP record-keeper before June 13, 1997. Nevertheless, employing agencies continue

to forward to the TSP record-keeper beneficiary designation forms that are sometimes decades old.

These aged forms often do not reflect the participant's current intent. Under the current regulations, the Agency must honor these aged forms if they are otherwise valid. When the Agency processes these forms, participants often become confused and believe their accounts have been accessed fraudulently. Further, if a participant passes away after the Agency has received an aged beneficiary designation form but prior to clarifying his/her current intent, the Agency must honor the old form even though it may not reflect the participant's current intent.

On September 20, 2013, the Agency published a proposal to amend its regulations to provide that a beneficiary designation form is valid only if it is received by the TSP record-keeper not more than 365 calendar days after the date of the participant's signature on the form. 78 FR 57807 (September 20, 2013). The Agency received no comments. Therefore, the Agency is publishing the proposed rule as final without change except for a minor clarification. The Agency is clarifying that, in the event that a beneficiary designation form contains multiple participant signatures with different dates, the TSP will rely on the most recently dated signature to determine whether 365 days have passed since the participant signed the form.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, and which is administered by the Agency.

Paperwork Reduction Act

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

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501-1571, 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 §1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted a report containing this rule and other required information to

the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the Federal Register. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1651

Claims, Government employees, Pensions, Retirement

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For the reasons stated in the preamble, the Agency amends 5 CFR chapter VI as follows:

PART 1651 -- Death Benefits

1. The authority citation for part 1651 continues to read as follows:

AUTHORITY: 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), 8474(c)(1), and Sec. 109, Pub. L. 11-31,123 Stat. 1176 (5 U.S.C. 8433(e)).

2. Amend §1651.3 by:

- a. Amending paragraph (c)(6) to remove "and";
- b. Amending paragraph (c)(7) to remove the period and add "; and"; and
- c. Adding paragraph (c)(8) to read as follows:

§1651.3 Designation of beneficiary.

(c) ***

(8) Be received by the TSP record-keeper not more than 365 calendar days after the date of the participant's most recent signature.

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