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**FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**

**5 CFR Parts 1600, 1601, and 1651**

**Default Investment Fund**

**AGENCY:** Federal Retirement Thrift Investment Board

**ACTION:** Final rule.

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**SUMMARY:** The Federal Retirement Thrift Investment Board (Agency) is amending its regulations to change the default investment fund for certain participants in the Thrift Savings Plan (TSP).

**DATES:** This rule is effective September 5, 2015.

**FOR FURTHER INFORMATION CONTACT:** Austen Townsend at (202) 864-8647.

**SUPPLEMENTARY INFORMATION:** The Agency administers the 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, members of the uniformed services, and spouse

beneficiaries. 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)).

On July 13, 2015, the Agency published a proposed rule with request for comments in the Federal Register (80 FR 39974, July 13, 2015). The Agency received no comments and, therefore, is publishing the proposed rule as final without change.

**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 civilian employees and spouse beneficiaries 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 section 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. The rule is not a major rule as defined in 5 U.S.C. 804(2).

**List of Subjects in 5 CFR Parts 1600, 1601, and 1651**

Government employees, Pensions, Retirement.

Gregory T. Long,

Executive Director, Federal Retirement Thrift Investment Board

For the reasons stated in the preamble, the Agency

amends 5 CFR chapter VI as follows:

**PART 1600-EMPLOYEE CONTRIBUTION ELECTIONS, CONTRIBUTION ALLOCATIONS, AND AUTOMATIC ENROLLMENT PROGRAM**

1. The authority citation for part 1600 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b), 8432(c), 8432(j), 8432d, 8474(b)(5) and (c)(1).

2. Amend § 1600.37 by revising the heading, the introductory text, and paragraphs (c) and (d), and by adding paragraph (e) to read as follows:

§ 1600.37 Notice.

The Board shall furnish all new employees and all rehired employees covered by the automatic enrollment program a notice that accurately describes:

\* \* \* \* \*

(c) The fund in which the default employee and agency contributions will be invested unless the employee makes a contribution allocation;

(d) The employee's ability to request a refund of any default employee contributions (adjusted for allocable gains and losses) and the procedure to request such a refund; and

(e) That an investment in any fund other than the G Fund is made at the employee's risk, that the employee is

not protected by the United States Government or the Board against any loss on the investment, and that neither the United States Government nor the Board guarantees any return on the investment.

**PART 1601-PARTICIPANTS' CHOICES OF TSP FUNDS**

3. The authority citation for part 1601 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8438, 8474(b)(5) and (c)(1).

4. Amend § 1601.13, by revising paragraphs (a)(3) and (4), redesignating paragraph (a)(5) as (a)(6) and revising it, and adding a new paragraph (a)(5) to read as follows:

§ 1601.13 Elections.

(a) \* \* \*

(3) A uniformed services participant or a participant enrolled prior to September 5, 2015 who elects for the first time to invest in a TSP Fund other than the G Fund must execute an acknowledgement of risk in accordance with § 1601.33;

(4) All deposits made on behalf of a participant enrolled prior to September 5, 2015 or a uniformed services participant who does not have a contribution allocation in effect will be invested in the G Fund. A participant who is enrolled prior to September 5, 2015 and subsequently

rehired on or after September 5, 2015 and has a positive account balance will be considered enrolled prior to September 5, 2015 for purposes of this paragraph;

(5) All deposits made on behalf of a participant first enrolled on or after September 5, 2015 who does not have a contribution allocation in effect will be invested in the age-appropriate TSP Lifecycle Fund; and

(6) Once a contribution allocation becomes effective, it remains in effect until it is superseded by a subsequent contribution allocation or the participant's account balance is reduced to zero. If a rehired participant has a positive account balance and a contribution allocation in effect, then the participant's contribution allocation will remain in effect until a new allocation is made. If, however, the participant has a zero account balance, then the participant's contributions will be allocated to the age-appropriate TSP Lifecycle Fund until a new allocation is made.

\* \* \* \* \*

§ 1601.22 [Amended]

5. Amend § 1601.22 by removing paragraph (a) (3).

6. Amend § 1601.33 by revising the first sentence of paragraph (a), to read as follows:

§ 1601.33 Acknowledgement of risk.

(a) A uniformed services participant or a participant enrolled prior to September 5, 2015 who wants to invest in a TSP Fund other than the G Fund must execute an acknowledgement of risk for that fund. \* \* \*

\* \* \* \* \*

**PART 1651-DEATH BENEFITS**

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

Authority: 5 U.S.C. 8424(d), 8432d, 8432(j), 8433(e), 8435(c) (2), 8474(b) (5) and 8474(c) (1).

8. Amend § 1651.2 by revising the last sentence of paragraph (d) to read as follows:

§ 1651.2 Entitlement to funds in a deceased participant's account.

\* \* \* \* \*

(d) \* \* \* The account will accrue earnings at the G Fund rate in accordance with 5 CFR part 1645 until it is paid out or a beneficiary participant account is established under this part.

3. Amend § 1651.19, by revising the first sentence of paragraph (a) to read as follows:

§ 1651.19 Beneficiary participant accounts.

\* \* \* \* \*

(a) \* \* \* Regardless of the allocation of the deceased participant's account balance at the time of his or her death, each beneficiary participant account, once established, will be allocated 100 percent to the age-appropriate TSP Lifecycle Fund based on the beneficiary participant's date of birth. \* \* \*

\* \* \* \* \*

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