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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Hardship Withdrawals for Expenses Related to Natural Disasters

AGENCY: Federal Retirement Thrift Investment Board

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (“FRTIB”) is amending its regulations to allow participants to take hardship withdrawals for expenses related to natural disasters.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jessica Bradford, (202) 864-8699.

SUPPLEMENTARY INFORMATION: The FRTIB 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)).

On February 14, 2020, the FRTIB published a proposed rule with request for comments in the **Federal Register** (85 FR 8482), and for reasons described below, is publishing the proposed rule as final without change.

The proposed rule amended 5 CFR 1650.32(b) to add to its list of authorized hardship expenses, the expenses and losses (including loss of income) resulting from a natural disaster as declared by the Federal Emergency Management Agency ("FEMA") and designated for individual assistance in order to allow TSP participants to make financial hardship withdrawals for such natural disaster expenses and losses. The FRTIB received six comments. Three of the comments expressed approval of the proposed regulation and recommended no changes.

One commenter encouraged the FRTIB to expand other parts of the FRTIB's hardship withdrawal program, such as permitting withdrawal of the full balance subject to certain minimum account values and increasing the current six-month wait period to 12 months between financial

hardship requests. The proposed regulation sought comments exclusively on adding natural disaster expenses and losses to the TSP's hardship withdrawal conditions, and, therefore, the FRTIB cannot further expand the withdrawal program beyond that purpose in the final regulation.

Another commenter asked whether a TSP participant may make a withdrawal under the natural disaster condition for expenses related to a family member's death resulting from the natural disaster. The final regulation does not limit the expense to a specific type, such as property expenses or medical expenses. Rather, the regulation requires that the expense be "incurred by the *participant* on account of a disaster declared by the [FEMA]" and that the participant's principal residence or principal place of employment at the time of the disaster be located in an area designated by the FEMA for individual assistance with respect to the disaster. Any expense that meets these requirements would be eligible for a hardship withdrawal.

For example, provided the participant's principal residence at the time of the disaster was located in an area declared by the FEMA for individual assistance, if a TSP participant's dependent or spouse died as a result of a natural disaster, and, as a result, the participant incurred funeral expenses relating to that dependent or

spouse, then the expense would be eligible for a hardship withdrawal under 1650.32(b)(5).

Another commenter urged the FRTIB to treat pandemics such as COVID-19 as natural disasters under this regulation. Guided by legislation, the FRTIB has implemented other withdrawal options designed to afford relief for adverse financial consequences due to COVID-19. For more information about those options, please visit www.tsp.gov/covid-19/.

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, members of the uniformed services who participate in the Thrift Savings Plan, and their beneficiaries. The TSP is a Federal defined contribution retirement savings plan created FERSA and is administered by the Agency.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under 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.

List of Subjects

5 CFR Part 1650

Taxes, Claims, Government employees, Pensions,
Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment
Board

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

**PART 1650 - METHODS OF WITHDRAWING FUNDS FROM THE THRIFT
SAVINGS PLAN**

1. The authority citation for part 1650 continues to read
as follows:

AUTHORITY: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435,
8474(b) (5) and 8474(c) (1).

2. Amend § 1650.32 by revising paragraph (b)
introductory text and adding paragraph (b) (5) to read as

follows:

§1650.32 Financial hardship withdrawals.

* * * * *

(b) To be eligible for a financial hardship withdrawal, a participant must have a financial need that results from at least one of the following five conditions:

(5) The participant has incurred expenses and losses (including loss of income) on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by the FEMA for individual assistance with respect to the disaster.

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