



FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1605

Breakage on Late Contributions, Makeup Contributions, and Loan Payments

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (FRTIB) adopts as final, without changes, the proposed rule permitting the TSP record keeper to calculate gains and losses on late contributions, makeup contributions, loan payments even when the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00.

DATES: The effective date is [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* James Kaplan, Office of External Affairs, (202) 864-7150.

For information about this final rule: Laurissa Stokes, Office of General Counsel, (202) 308-7707.

SUPPLEMENTARY INFORMATION: The FRTIB 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 is a retirement savings plan for Federal civilian employees and members of the uniformed services. It 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)). The provisions of FERSA that govern the TSP are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79.

Under 5 U.S.C 8432, the Executive Director of the FRTIB is directed to prescribe regulations to establish an error correction procedure for lost earnings that result from employing agencies' errors.

Employing agencies submit agency matching contributions, deduct employee contributions from participants' basic pay, and deduct loan payments from participants' basic pay. Employing agencies also submit makeup contributions to the TSP.

Contribution and loan payment information are submitted by employing agencies to the TSP record keeper using a payment record. Occasionally, a payment record is not submitted timely or contains an error. As a result, the participant's funds are unavailable for investment by the TSP record keeper and do not experience gains realized or losses incurred that they would have otherwise. These missed gains or losses are referred to as breakage.

Previously, section 1605.2(a)(1) said the TSP does not calculate breakage if the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00. We believe this rule existed due to technological and administrative limitations that no longer exist and is, therefore, obsolete. This final rule will direct the TSP record keeper to calculate breakage even when the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00.

On December 18, 2024, the FRTIB published a proposed rule with request for public comments in the **Federal Register** (89 FR 102840, December 18, 2024). The period for public comments closed on February 18, 2025, and we received no comments. For the reasons explained above, the FRTIB is adopting the proposed rule as final, without any substantive changes.

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 FRTIB.

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 Accountability Office: Pursuant to 5 U.S.C. 801(a)(1)(A), the FRTIB submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Government Accountability Office 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 1605

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 part 1605 as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

1. The authority citation for part 1605 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432a, 8432d, 8474(b)(5) and (c)(1). Subpart B also issued under section 1043(b) of Public Law 104-106, 110 Stat. 186 and § 7202(m)(2) of Public Law 101-508, 104 Stat. 1388.

2. Amend § 1605.2 by revising paragraph (a)(1) to read as follows:

§ 1605.2 Calculating, posting, and charging breakage on late contributions and loan payments.

(a) * * *

(1) The TSP record keeper will not calculate breakage if contributions or loan payments are posted within 30 days of the “as of” date; and

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[FR Doc. 2025-06407 Filed: 4/15/2025 8:45 am; Publication Date: 4/16/2025]