



FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1605

Method of Correcting Errors Involving Retired Lifecycle Funds

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Federal Retirement Thrift Investment Board (FRTIB) is proposing to amend its regulation regarding the method for correcting errors involving Lifecycle Funds that no longer exist. Specifically, it is reverting to the use of a constructed share price to calculate breakage and the value of negative adjustments for errors involving Lifecycle Funds that no longer exist as of June 1, 2022.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments using one of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Office of General Counsel, Attn: Dharmesh Vashee, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.

Comments will be made available to the public online at <https://www.regulations.gov>. Do not include any personally identifiable or confidential information that you do not want publicly disclosed. Anonymous comments are acceptable.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Jim Kaplan at (202) 864-7150. *For information about how to comment on this proposed rule:* Charles Stone at (202) 253-9006.

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 tax-advantaged retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or advantaged 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.

TSP Lifecycle Funds

The TSP offers five core funds (the G, F, C, S, and I Funds). In addition, the TSP offers eleven Lifecycle Funds, which consist of a diversified mix of the five individual funds (G, F, C, S, and I). The Lifecycle Funds are designed to align with the investing participant's target retirement date. Most of the Lifecycle Funds are labeled with a year (L 2025, L 2030, L 2035, L 2040., *etc.*) that represents the target retirement date. One of the Lifecycle Funds—the L Income Fund—is not associated with a target retirement date. The L Income Fund has a very conservative investment strategy – it is designed to preserve assets, and to generate income rather than investment growth.

Every quarter (three months), the asset allocations of all the Lifecycle Funds except the L Income Fund are automatically adjusted, gradually shifting them from higher risk and reward to lower risk and reward as they get closer to their target dates. In the year of a Lifecycle Fund's target date, it goes out of existence and any money in it becomes part of the L Income Fund. For example, this year, the L 2025 Fund will be rolled into the L Income Fund. A Lifecycle Fund that no longer exists is referred to as a “retired” Lifecycle Fund.

Correction of Errors Involving Retired Lifecycle Funds

Once an L Fund is retired, TSP participants are no longer able to invest their contributions in that fund. However, the FRTIB is sometimes required to calculate lost earnings (*i.e.*, breakage) for errors involving a retired L Fund. Breakage is the loss incurred (negative earnings) or the gain realized (positive earnings) on late and makeup contributions. Similarly, the FRTIB must sometimes process the removal of erroneous contributions (*i.e.*, a negative

adjustment) previously made to a now-retired L Fund. The value of a negative adjustment equals the amount of the erroneous contributions plus earnings (positive or negative) on that amount.

Section 1605.2 contains a formula for calculating breakage, and section 1605.12 contains a formula for calculating the value of negative adjustments. The current share price of the relevant investment fund is one of variables in each of these formulas. Because a retired Lifecycle Fund no longer exists, there is no current share price. In the past, the FRTIB used a constructed share price to calculate breakage and the value of negative adjustments for errors involving retired Lifecycle Funds.

The first TSP Lifecycle Fund to ever be retired was the L 2010 Fund. On October 14, 2010, the FRTIB published a proposed rule explaining the FRTIB's anticipated use of a constructed share price to calculate breakage and the value of negative adjustments for errors involving retired Lifecycle Funds. (75 FR 63106). Under that proposed rule, the constructed share price for a retired Lifecycle Fund would be determined as follows: The retired Lifecycle Fund's share price on the date it was retired, multiplied by the current L Income Fund share price, divided by the L Income Fund share price on the date the Lifecycle fund was retired. The FRTIB received no public comments. On December 1, 2010, the FRTIB published the proposed rule as final without modification. (75 FR 74607).

Impact of the Transition to a New Recordkeeper

In November 2020, the FRTIB awarded a contract to a new service provider (called a recordkeeper) that maintains and operates the technology platforms necessary to process TSP transactions. The transition from the prior TSP recordkeeper to the new TSP recordkeeper was an enormous technological project that occurred over the course of 18 months. During that transition period, the new TSP recordkeeper informed the FRTIB that the new TSP recordkeeper was unable to calculate a constructed share price for retired Lifecycle Funds. Accordingly, the FRTIB amended its regulations to provide that the share price of the L Income Fund would be used instead. (87 FR 31670).

Proposed Rule

The new TSP recordkeeper has since informed the FRTIB that the new TSP recordkeeper can use a constructed share price to calculate breakage and the value of negative adjustments for errors involving Lifecycle Funds retired on or after June 1, 2022 – the date the new TSP recordkeeper began processing TSP transactions.¹ Accordingly, the FRTIB proposes to revert to the use of a constructed share price to calculate breakage and the value of negative adjustments for errors involving Lifecycle Funds that are retired on or after June 1, 2022. This will provide the participant with a composite of the return of the Lifecycle Fund before it was retired, and the return of the L Income Fund after the Lifecycle Fund was retired. The TSP recordkeeper will continue to use the share price of the L Income Fund to calculate breakage and the value of negative adjustments for errors involving Lifecycle Funds retired before June 1, 2022.

Regulatory Flexibility Act

This proposed 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

This proposed regulation does not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

¹ No Lifecycle Funds have been retired since June 1, 2022. But the L 2025 Fund will retire this summer.

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

List of Subjects in 5 CFR Part 1605

Employee benefit plans, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement.

Ravindra Deo,
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Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB proposes to amend 5 CFR part 1605 as follows:

PART 1605 – CORRECTION OF ADMINISTRATIVE ERRORS

Subpart A - General

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 (b)(3) to read as follows:

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

(b)***

(3) Determine the dollar value on the posting date of the number of shares the participant would have received had the contributions or loan payments been made on time. If the

contribution or loan payments would have been invested in a Lifecycle Fund that retired prior to June 1, 2022, then the share price of the L Income Fund will be used; but if the Lifecycle Fund retired on or after June 1, 2022, then a constructed share price for the retired Lifecycle Fund will be used. The constructed share price shall equal the final posted share price of the retired Lifecycle Fund, multiplied by the current L Income Fund share price, divided by the L Income Fund share price on date of the final posted share price of the retired Lifecycle Fund. The dollar value shall be the number of shares the participant would have received had the contributions or loan payments been made on time multiplied by the relevant share price modifier, as determined by the posting date.

3. Amend § 1605.12 by revising paragraph (c)(2)(ii) to read as follows:

Subpart B – Employing Agency Errors

§ 1605.12 Removal of erroneous contributions.

(c)***

(2)***

(ii) Multiply the price per share on the date the adjustment is posted by the number of shares calculated in paragraph (c)(2)(i) of this section. If the contribution was erroneously contributed to a Lifecycle Fund that is retired on the date the adjustment is posted and the Lifecycle Fund retired prior to June 1, 2022, then the share price of the L Income Fund will be used; or if the Lifecycle Fund retired on or after June 1, 2022, then a constructed share price for the retired Lifecycle Fund will be used. The constructed share price shall equal the final posted share price of the retired Lifecycle Fund, multiplied by the current L Income Fund share price, divided by the L Income Fund share price on date of the final posted share price of the retired Lifecycle Fund.
