



FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1655

Curing Missed Loan Payments

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Federal Retirement Thrift Investment Board (FRTIB) proposes to update its regulations regarding the methods available to participants to cure missed loan payments. The proposed change will also clarify the number of missed payments which must be brought back into compliance by the last day of the quarter following the quarter in which the payment was missed to avoid triggering a deemed distribution.

DATES: Comments must be received on or before [INSERT DATE 60 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:* James Kaplan at (202) 809-2625. *For information about how to comment on this proposed rule:* Elizabeth Harris at (202) 913-5300.

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.

The FRTIB proposes to update its regulations regarding the methods available to participants to cure missed loan payments to include recurring payroll loan deductions. The FRTIB also proposes to clarify the number of missed payments which must be cured to avoid triggering a deemed distribution.

Currently, under FRTIB regulations when a participant misses a loan payment, the participant cannot make up the missed payment through a scheduled payroll deduction. TSP will only accept a one-time payment in the form of a check, guaranteed funds, or direct debit from a personal savings or checking account. The FRTIB proposes to update its regulation to allow participants to use recurring payroll loan deductions to make up missed payments. This proposed change will provide participants with greater flexibility when a loan payment is missed due to a temporary change in payroll status, transfer to another federal agency with a different pay schedule, or other circumstance.

When a participant elects to use a recurring payroll loan deduction to make up a missed payment, the payroll deduction will shift or roll the missed loan payment to the following month. For example, if a participant misses a loan payment in March and restarts payroll loan deductions in April, the April payroll deduction will satisfy the missed March payment. However, the April payment will now be considered missed. When a participant makes up a missed payment through a subsequent month's payroll deduction, the participant will remain behind on their loan repayment schedule by one payment until one of the following occur: a one-time payment is submitted; the maximum loan term is reached, and a deemed distribution occurs; or the participant misses additional payment(s) and a deemed distribution is triggered.

The FRTIB further proposes to amend its regulations regarding the number of missed payments which must be cured to avoid a deemed distribution. IRS regulations provide flexibility to plan sponsors to permit a cure period for missed loan payments that lasts no later than the last day of the calendar quarter following the calendar quarter in which the required installment payment was due. Currently, TSP regulations are more stringent than the IRS requires, and TSP treats a loan as a deemed distribution in instances where a participant has not made up all missed payments by the end of the calendar quarter following the calendar quarter in which the first payment was missed. The FRTIB proposes to align its regulation with the maximum period permitted under IRS regulations to reduce the instances where a participant loan is treated as a deemed distribution in accordance with section 72(p) of the Internal Revenue Code.

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 TSP.

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

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

5 CFR Part 1655

Credit, Government Employees, Pensions, Retirement.

Ravindra Deo,

Executive Director,

Federal Retirement Thrift Investment Board.

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

PART 1655 - LOAN PROGRAM

1. The authority citation for part 1655 continues to read as follows:

Authority: 5 U.S.C. 8432d, 8433(g), 8439(a)(3) and 8474.

2. In § 1655.14 amend by revising paragraph (e) to read as follows:

§ 1655.14 Loan payments.

(e) In the case of a participant who has not separated from Government service, if a payment is not made when due, the TSP record keeper will notify the participant of the missed payment. The participant can make-up the missed payment in the form of a check, guaranteed funds, a one-time payment via loan direct debit from his or her personal savings or checking account, or by resuming scheduled loans payments by payroll deduction. If the participant does not make up the missed payment by the end of the calendar quarter following the calendar quarter in which the payment was missed, the TSP record keeper will declare the loan to be a deemed distribution in accordance with § 1655.15(a). The declaration of a deemed distribution does not relieve the participant of his or her obligation to repay the amount.

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