

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**5 CFR Part 1601****Participant Choices of Investment Funds**

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing final rules on participants' choices of Thrift Savings Plan (TSP) investment funds. The final rules include amendments to the existing revised interim rules found at subparts A and C of 5 CFR Part 1601. The amendments reflect changes in the methods by which TSP participants may request interfund transfers, including use of an automated voice response system to make, change, or cancel interfund transfer requests. The amendments also increase the number of interfund transfers permitted per year from four (4) to twelve (12). No amendments have been made to subpart B.

EFFECTIVE DATE: These final rules are effective August 16, 1995.

ADDRESSES: Questions concerning these regulations may be addressed to David L. Hutner, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005, (202) 942-1661.

SUPPLEMENTARY INFORMATION: Interim rules governing participants' choices of investment funds were originally published in the **Federal Register** on March 29, 1990 (55 FR 11880) as an amendment to title 5 of the Code of Federal Regulations, adding Part 1601, Participants' Choice of Investment Funds. Revised interim rules were published in the **Federal Register** on January 7, 1991 (56 FR 592) primarily to implement section 3 of the Thrift Savings Plan Technical Amendments Act of 1990 (TSPTAA), which removed investment restrictions that had been in place prior to the effective date of the TSPTAA. On December 28, 1994, the Board published a proposed rule in the **Federal Register** (59 FR 66796) setting forth changes in the procedures by which TSP participants may make, change, or cancel interfund transfer requests. The Board did not receive any comments on the proposed regulations. On May 26, 1995, the December 28, 1994, proposed amendments to the interim rules were withdrawn and replaced by new proposed amendments (60 FR 27908). No comments on the proposed amendments have been received. However, the proposal to

remove investment restrictions from the accounts of participants who are receiving equal payments has been deleted from the final rule because the technical changes necessary to accomplish that have not been completed. When those technical changes are completed, it is the Board's intention to amend the regulations to eliminate the investment restrictions.

Thus, the final rule amends the interim rule by making changes to the procedures by which TSP participants may make, change, or cancel interfund transfer requests. The primary change in the procedures involves the availability of the automated voice response system, known as the "ThriftLine," for participants to make interfund transfer requests over the telephone. The ThriftLine provides services to participants in addition to enabling them to make interfund transfer requests, but those other functions are not addressed in these regulations. The final rule also addresses a policy change which has been adopted by the Board and which was reflected in the May 26, 1995, proposal. It amends the interim rule by increasing the number of interfund transfers permitted per year from four (4) to twelve (12).

Section by Section Analysis*Subpart A*

The final rule amends § 1601.1, which contains the definitions applicable to Part 1601, by revising one definition and adding three new ones.

The definition of "Interfund transfer request" has been amended to reflect that properly completing and submitting to the TSP recordkeeper an Interfund Transfer Request (Form TSP-30) is no longer the exclusive method to request an interfund transfer. A request may also be made by proper entry of the transaction on the automated ThriftLine.

Definitions of "Board" (the Federal Retirement Thrift Investment Board), "Acknowledgment of Risk," and "ThriftLine" have been added. Under 5 U.S.C. 8439(d), all participants who invest in the Common Stock Index Investment Fund (C Fund) or the Fixed Income Investment Fund (F Fund) must sign an acknowledgment that the investment is made at the participant's own risk and that the participant is not protected against losses on the investment or guaranteed a return on the investment. Under § 1601.5 of the final rule, the procedures for satisfying the requirements of 5 U.S.C. 8439(d) have been changed.

Instructions for use of the ThriftLine to make interfund transfer requests on

the telephone are widely available to all TSP participants.

Subpart B

Subpart B is unchanged by the final rule.

Subpart C

Section 1601.5 sets forth the methods by which interfund transfer requests can be made. Section 1601.5(a) contains the general rule that interfund transfer requests may now be made either by submission or a properly completed Form TSP-30 or by entry of the transaction on the ThriftLine. Section 1601.5(a) also states explicitly that Form TSP-30 generated prior to October 1990 cannot be used to make interfund transfer requests. Such forms can be readily identified because they were preprinted with participants' names and addresses, described restrictions on the amounts that could be invested in the C Funds and F Fund, and specified a particular effective date for the interfund transfer. Similarly, Form TSP-30-S, which was designed for use only by certain FERS participants to make interfund transfers effective as of the end of December 1990, cannot be used to make interfund requests.

Section 1601.5(b) retains the rule that interfund transfer requests must include designations of percentages to be invested in each of the TSP investment funds in multiples of 5 percent that total 100 percent. This requirement applies regardless of whether the interfund transfer request is entered on the ThriftLine or is submitted on Form TSP-30. Section 1601.5 also retains from the interim rule the admonition that an interfund transfer request does not affect future contributions made by a participant. If a participant wishes to change the allocation of future contributions among the investment funds, that can only be accomplished by submission of his or her employing agency of a properly completed Election Form (TSP-1) during a TSP Open Season. The rules for submission of Election Forms are set forth in Subpart B, which is unchanged by the final rule.

Section 1601.5(c) retains the interim rule that percentages elected by the participant are applied to the account balance as of the effective date of the interfund transfer, which is established as provided in § 1601.6. The percentages are applied to the account in the same manner, whether submitted on Form TSP-30 or entered on the ThriftLine.

Section 1601.5(d) contains significant changes to the procedures governing the acknowledgment of risk required by 5 U.S.C. 8439(d). Under the interim rule, all participants requesting an interfund