

separated participants to begin receiving payments from their accounts by April 1 of the year following the year they become age 70½. The rule set forth in § 1650.12(b) requires a TSP withdrawal method to begin by the same date. Eventually, the Board expects the rule set forth in § 1650.12(b), in conjunction with the rule set forth in § 1650.13 concerning the date by which an election is required, to eliminate the need for most required minimum distribution payments, except for those made in conjunction with another withdrawal election. However, as explained further in the discussion of § 1650.13, because some participants over age 70½ who leave Government employment with less than 10 years of service will still be able to defer making a decision, minimum distribution payments will continue to be made to this group.

Sections 1650.12 (c) and (d) describe the TSP procedures for notifying participants who have made deferred withdrawal elections of what actions they are permitted or required to take prior to implementation of their election.

Section 1650.13 provides rules for implementing the provisions of 5 U.S.C. 8433(h)(2). This section requires a TSP participant to make a withdrawal election by February 1 of the year following the year in which the later of three events occurs—the participant becomes age 65, the participant separates from Government employment, or the participant has 10 years of Plan participation. The statute expresses the latter event as “the tenth anniversary of the year in which \* \* \* [the participant] became subject to this subchapter.” The regulation reflects the Board’s interpretation of this language to mean the effective date of the first contribution made to the participant’s TSP account, but no earlier than April 1, 1987, the date the TSP first began accepting contributions. The effective date of the first contribution is also chosen for administrative purposes, because it is a date that is clearly reflected in TSP records.

For most participants (i.e., those with 10 or more years of Government service who separate or retire before age 65), this provision will operate to require a choice by February 1 of the year following the year in which the participant reaches age 65. The participant is still permitted to make a deferred election at that time, but the date of the deferral is subject to the limits stated in § 1650.12(b), which require that a deferred election must begin by April 1 of the year following the year a participant becomes age 70½.

Together, these provisions ensure that a decision about the method of withdrawing the TSP account is made on or about the time a participant might be expected to retire and that payments begin no later than the year following the year in which the participant becomes age 70½. This allows both the TSP and the participant’s spouse, who has certain rights with respect to the election, to be aware of the chosen withdrawal method by the normal retirement age. This also prevents the participant from receiving his or her entire account balance through the minimum distribution process without spousal involvement. However, because TSP participation only began in April 1987, the 10th anniversary of the first TSP contributions will not occur until 1997. Therefore, a withdrawal election will not need to be made under this provision until February 1, 1998, at the earliest.

By establishing a date by which the participant must make an election, the Board has also interpreted the statute as providing that a separated TSP participant need not make any withdrawal election prior to that date. Instead, a participant who separates from Government employment can decide to leave his or her account in the Plan and take no action until the required date.

If a withdrawal election is not made by the required date, the statute provides that the “benefits under this subchapter will be paid as an annuity \* \* \*.” Because the 10-year anniversary has not yet occurred for any TSP participant, there has as yet been no need to address participants who do not make an election by the required date. Section 1650.13(d) describes procedures which reasonably accommodate the language of the statute requiring that an annuity be purchased for such persons, yet also recognizes that the TSP may not be able to purchase an annuity for a participant who will not provide required information (such as a current address).

Section 1650.13(d) also provides that, for married FERS participants, the annuity that must be purchased is the required joint life annuity with the spouse. Although this is not explicitly stated in 5 U.S.C. 8433(h)(3), 5 U.S.C. 8435 requires a married FERS participant to purchase the required joint life annuity with his or her spouse if the spouse does not waive that right. If the required joint life annuity were not purchased under § 1650.13, a married FERS participant could effectively avoid the requirement to purchase a joint life annuity with the spouse by refusing to make any election

at all. For single participants covered by FERS and all participants covered by CSRS, however, a single life annuity will be purchased, since there is no statutory requirement to purchase a joint life annuity with the spouse.

Section 1650.13(d)(3) recognizes that, in certain cases, the participant will not provide the TSP with adequate information to purchase the required annuity (either single life or joint life with spouse). Because the law does not allow accounts in this status to remain open indefinitely, the regulation describes a procedure whereby an account will be forfeited if there is not adequate information to purchase an annuity. However, if any person (such as the spouse or guardian, for example) can provide such information, the account will be restored and the annuity purchased. At the time of forfeiture, the participant generally would lose the right to choose a different method of withdrawal.

Section 1650.14 sets forth rules concerning participants who change or cancel their withdrawal elections. Generally, participants can change their withdrawal elections as long as they have met any applicable spousal rights requirements with respect to the new election. For example, if a spouse of a FERS participant waives his or her right to a survivor benefit when the participant chooses a single life annuity, the participant can later change his or her election to a single payment without obtaining another waiver from that spouse. However, if the participant has a different spouse when a new election is made, a waiver would be required from the new spouse.

The right both to change and cancel a withdrawal election is also affected by the date the payment is scheduled. As explained in § 1650.7, the TSP is a monthly valued plan. As such, payments are scheduled to occur once a month during the mid-month processing cycle. Participants who have their accounts invested only in the G Fund can change or cancel their election as long as the change or cancellation can be processed prior to the mid-month cycle in which the account is scheduled to pay. This is because the underlying value of investments in the G Fund does not fluctuate. However, if a participant has all or a portion of his or her account invested in the C Fund or the F Fund, the underlying value can fluctuate. Therefore, the change or cancellation must be processed no later than the second-to-last business day (the “cutoff date”) of the month preceding the mid-month cycle in which the account is scheduled to pay, so that the amount to be withdrawn can be insulated from