

Proposed Rules

Federal Register

Vol. 66, No. 58

Monday, March 26, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1600

Employee Elections to Contribute to the Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) proposes to amend the regulations on employee elections to contribute to the Thrift Savings Plan (TSP) to provide for employee participation in the Thrift Savings Plan to begin immediately upon the employee's appointment to a position covered by FERS or CSRS, or an equivalent retirement plan. Beginning July 1, 2001, participants also will be able to transfer into their TSP accounts funds from certain qualified retirement plans or conduit individual retirement accounts (IRAs). In addition, the limitations on employee contributions (as a percentage of basic pay) are phased out over the next 5 years.

DATES: Comments must be received on or before April 25, 2001.

ADDRESSES: Comments may be sent to: Elizabeth S. Woodruff, General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Salomon Gomez on (202) 942-1661; Merritt A. Willing on (202) 942-1666; or Patrick J. Forrest on (202) 942-1659. FAX (202) 942-1676.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, which has been codified, as amended, largely at 5 U.S.C. 8351 and 8401-8479. The TSP is a tax-deferred retirement savings plan for Federal employees, which is similar to cash or deferred arrangements established

under section 401(k) of the Internal Revenue Code. Sums in a TSP participant's account are held in trust for that participant.

On December 2, 1987, the Board published in the **Federal Register** (52 FR 45802) interim rules concerning the procedures governing the establishment of open seasons and election periods for Federal employees to make or change employee contributions to the TSP. On June 22, 1988, the Board amended sections 1600.3, 1600.10, and 1600.13 (53 FR 23379). On November 4, 1994, the Board published in the **Federal Register** (59 FR 55331) a final rule concerning contribution elections. The Board amended section 1600.1 of the final rule on November 18, 1996 (61 FR 58754) to revise the definition of basic pay.

On October 27, 2000, Congress passed Public Law 106-361. In it, Congress eliminates the waiting period for new and rehired employees to begin making employee contributions. The Act also permits participants to transfer moneys from certain qualified retirement accounts and conduit IRAs into their TSP accounts. Also, on December 21, 2000, Congress passed the Consolidated Appropriations Act for Fiscal Year 2001, Public Law 106-554, which includes a provision changing the limits on FERS and CSRS TSP employee contributions (i.e., 10 and 5 percent of basic pay, respectively) by raising the percentage limitation one percent each year until 2006, when the limits are removed altogether. However, the Internal Revenue Code annual limits on elective deferrals, I.R.C. sections 402(g) and 415(c), will continue to be applicable to TSP contributions. This proposal revises the regulation to incorporate these statutory changes.

Analysis

Subpart A includes definitions that are relevant to contributions; the definition of highly compensated employee in the existing regulation is deleted because it is obsolete.

In subpart B, the Board proposes to combine the portions of existing subparts B, C, and D that relate to contribution elections. The rule deletes obsolete references to the initial open season in 1987, and makes changes necessary to permit immediate employee contributions. It eliminates the requirement that an employee who was previously eligible to participate in

the TSP must wait until an open season to make a contribution election. Under the proposed rule, an employee is immediately eligible to make a contribution election for employee contributions. If the employee was previously eligible to receive employer contributions, the employee will also be immediately eligible to receive employer contributions. The proposed regulation makes other changes to differentiate between contribution elections, provided for in this part, and contribution allocations, provided for in part 1601.

In subpart C, the Board proposes to reorganize the provisions of existing subpart C that describe the contributions program in general. The proposed regulation phases out the limits on employee contributions as a percentage of basic pay and explains the Internal Revenue Code's limitations on TSP contributions, which still apply.

The Board proposes to delete the portions of existing subpart D that were not included in proposed subpart B, all of existing subpart E, and § 1600.17 of existing subpart F because they are obsolete. Section 1600.18 of existing subpart F is incorporated into proposed subpart B. The proposed regulation creates a new subpart D which describes the kinds of qualified retirement accounts and conduit IRAs that may be transferred to the TSP, the method by which a transfer may be made, and the treatment accorded such funds in the TSP.

CROSS-REFERENCE TABLES

Old section	New section
1600.1	1600.1
1600.2(a)	Deleted.
1600.2(b)	1600.12(b)
1600.2(c)	1600.15
1600.2(d)	1600.16
1600.3	Deleted.
1600.4(a)	1600.11(a)
1600.4(b)	Deleted.
1600.5	1600.12(c)
1600.6	1600.14
1600.7	1600.13
1600.8	Deleted.
1600.9	1600.21
1600.10	1600.22
1600.11	1600.23
1600.12	1600.18
1600.13	Deleted.
1600.14	Deleted.
1600.15	Deleted.
1600.16	Deleted.
1600.17	Deleted.

CROSS-REFERENCE TABLES—
Continued

Old section	New section
1600.18	Deleted.
1600.1	1600.1
1600.11	1600.4
1600.12	1600.2(b), 1600.5
1600.13	1600.7
1600.14	1600.6
1600.15	1600.2(c)
1600.16	1600.2(d)
1600.17	New.
1600.18	1600.12
1600.21	1600.9
1600.22	1600.10
1600.23	1600.11
1600.31	New.
1600.32	New.
1600.33	New.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

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 section 1532 is not required.

List of Subjects in 5 CFR Part 1600

Employment benefit plans,
Government employees, Pensions,
Retirement.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, the Board proposes to revise 5 CFR part 1600 to read as follows:

**PART 1600—EMPLOYEE ELECTIONS
TO CONTRIBUTE TO THE THRIFT
SAVINGS PLAN****Subpart A—General**

Sec.
1600.1 Definitions.

Subpart B—Elections

1600.11 Types of elections.
1600.12 Period for making contribution elections.
1600.13 Effective dates of contribution elections.
1600.14 Method of election.
1600.15 Number of elections.
1600.16 Belated elections.
1600.17 Timing of agency contributions.
1600.18 Effect of transfer to FERS.

Subpart C—Program of Contributions

1600.21 Contributions in whole numbers.
1600.22 Maximum contributions.
1600.23 Required reduction of contribution rates.

Subpart D—Transfers From Other Qualified Retirement Plans

1600.31 Accounts eligible for transfer.
1600.32 Methods for transferring account from qualified retirement plan or conduit IRA to TSP.
1600.33 TSP treatment accorded transferred funds.

Authority: 5 U.S.C. 8351, 8432(b)(1)(A), 8474(b)(5) and (c)(1).

Subpart A—General**§ 1600.1 Definitions.**

Terms used in this part have the following meanings:

Account or *individual account* means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a).

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432(c)(1) and (c)(3).

Agency matching contributions means any contributions made under 5 U.S.C. 8432(c)(2).

Basic pay means basic pay as defined in 5 U.S.C. 8331(3). For CSRS and FERS employees, it is the rate of pay used in computing any amount the individual is otherwise required to contribute to the Civil Service Retirement and Disability Fund as a condition of participating in the Civil Service Retirement System or the Federal Employees' Retirement System, as the case may be.

Board means the Federal Retirement Thrift Investment Board established under 5 U.S.C. 8472.

Contribution allocation means the apportionment of a participant's future contributions and loan payments among the TSP investment funds.

Contribution election means a request by an employee to start contributing to the TSP, to change the amount of contributions made to the TSP each pay period, or to terminate contributions to the TSP.

CSRS means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, or any equivalent Federal retirement system.

CSRS employee or *CSRS participant* means any employee or participant covered by CSRS.

Date of appointment means the effective date of an employee's accession by the current employing agency.

Election period means the last calendar month of a TSP open season. It is the earliest period during which a TSP contribution election can become effective.

Employee contributions means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8351(a), 8432(a), or 8440a through 8440e.

Employer contributions means agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1) or 8432(c)(3) and agency matching contributions under 5 U.S.C. 8432(c)(2).

Employing agency means the organization that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual.

Executive Director means the Executive Director of the Federal Retirement Thrift Investment Board under 5 U.S.C. 8474.

FERS means the Federal Employees' Retirement System established by 5 U.S.C. chapter 84 or any equivalent Federal retirement system.

FERS employee or *FERS participant* means any employee or TSP participant covered by FERS.

Open season means the period during which employees may elect to make contributions to the TSP, change the amount of contributions, or terminate contributions (without losing the right to resume contributions during the next open season).

Separation from Government service means the cessation of employment with the Federal Government, the U.S. Postal Service, or with any other employer, from a position that is deemed to be Government employment for purposes of participating in the TSP, for 31 or more full calendar days.

Thrift Savings Plan, TSP, or Plan means the Thrift Savings Plan established under subchapters III and VII of the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8351 and 8401–8479.

Thrift Savings Plan Service Office (TSPSO) means the office of the TSP record keeper which provides service to participants. The TSPSO's address is: Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, Louisiana 70161–1500.

TSP record keeper means the entity that is engaged by the Board to perform

record keeping services for the Thrift Savings Plan. As of the date of publication of this part, the TSP record keeper is the National Finance Center, Office of Finance and Management, United States Department of Agriculture, located in New Orleans, Louisiana.

Subpart B—Elections

§ 1600.11 Types of elections.

(a) *Contribution elections.* A contribution election can be made on a Form TSP-1, Thrift Savings Plan Election Form, and includes any one of the following elections:

- (1) To make employee contributions;
- (2) To change the amount of employee contributions; or
- (3) To terminate employee contributions.

(b) *Contribution allocation.* A participant may make or change the manner in which future deposits to his or her account are allocated among the TSP's investment funds only in accordance with 5 CFR part 1601.

§ 1600.12 Period for making contribution elections.

(a) *Participation upon initial appointment or reappointment.* An employee may make a contribution election as follows:

(1) *Appointments made during the period January 1 through June 30, 2001.* An employee appointed, or reappointed following a separation from Government service, to a position covered by FERS or CSRS during the period January 1 through June 30, 2001, may make a TSP contribution election during the May 15 through July 31, 2001, open season.

(2) *Appointments made on or after July 1, 2001.* An employee appointed, or reappointed following a separation from Government service, to a position covered by FERS or CSRS may make a TSP contribution election within 60 days after the effective date of the appointment.

(b) *Open season elections.* Any employee may make a contribution election during an open season. Each year an open season will begin on May 15 and will end on July 31; a second open season will begin on November 15 and will end on January 31 of the following year. If the last day of an open season falls on a Saturday, Sunday, or legal holiday, the open season will be extended through the end of the next business day.

(c) *Election to terminate contributions.* An employee may elect to terminate employee contributions to the TSP at any time. If an employee's election to terminate contributions is

received by the employing agency during an open season, the employee, if otherwise eligible, may make an election to resume contributions during the next open season. If the election to terminate contributions is received by the employing agency outside an open season, the employee may not make an election to resume contributions until the second open season beginning after the election to terminate.

(d) *Forced termination of employee contributions due to in-service hardship withdrawal restrictions under 5 CFR part 1650.* If an employee is reappointed to a position covered by FERS or CSRS following a separation from Government service and, at the time of separation, he or she had been previously ineligible to make employee contributions or receive agency matching contributions because of the restrictions on participants' ability to make contributions after having received an in-service hardship distribution, described in 5 CFR part 1650, the employee continues to be ineligible to make employee contributions or have agency matching contributions made on the employee's behalf during the six-month period described at § 1650.32.

§ 1600.13 Effective dates of contribution elections.

(a) *Participation upon initial appointment or reappointment.* (1) TSP contribution elections made pursuant to § 1600.12(a)(1) will be effective no earlier than the first full pay period in July 2001. TSP contribution elections that are received by the employing agency between May 15, 2001, and June 30, 2001, will become effective the first full pay period of the election period. TSP contribution elections that are received by the employing agency during July 2001 will become effective no later than the first full pay period after the date the employing agency receives the election.

(2) TSP contribution elections made pursuant to § 1600.12(a)(2) will become effective no later than the first full pay period after the election is received by the employing agency.

(b) *Open season elections.* TSP contribution elections made pursuant to § 1600.12(b) that are received by an employing agency during a portion of an open season which precedes the election period, except for an election to terminate contributions, will become effective the first full pay period of the election period. TSP contribution elections made pursuant to § 1600.12(b) that are received by an employing agency during the election period will become effective no later than the first

full pay period after the date the employing agency receives the election.

(c) *Election to terminate contributions.* An election to terminate contributions, whenever it is made, will become effective no later than the first full pay period after the date the employing agency receives the election.

(d) *Elections resulting from transfer to FERS.* Elections made pursuant to § 1600.18 will become effective no later than the first full pay period after the date the employing agency receives the election. If the employee submits a contribution election at the same time that he or she submits the FERS transfer election, both elections will become effective the same pay period.

§ 1600.14 Method of election.

(a) A participant must submit a contribution election to his or her employing agency. Employees may use either the paper TSP election form, Form TSP-1, or, if provided by their employing agency, electronic media to make an election. If an electronic medium is used, all relevant elements contained on the paper Form TSP-1 must be included in the electronic medium.

(b) A contribution election must:

(1) Be completed in accordance with the instructions on Form TSP-1, if a paper form is used;

(2) Be made in accordance with the employing agency's instructions, if the submission is made electronically; and

(3) Not exceed the maximum contribution limitations described in § 1600.22.

§ 1600.15 Number of elections.

Once a contribution election made during an open season becomes effective, no further contribution elections may be made during the same open season, except an election to terminate contributions.

§ 1600.16 Belated elections.

When an employing agency determines that an employee was unable, for reasons that were beyond the employee's control (other than agency administrative error, as provided in 5 CFR part 1605), to make a contribution election within the time limits prescribed by this part, the agency may accept the employee's election within 30 calendar days after it advises the employee of its determination. The election will become effective no later than the first full pay period after the date the employing agency receives the election.

§ 1600.17 Timing of agency contributions.

(a) *Employees not previously eligible to receive agency contributions.* An

employee appointed or reappointed to a position covered by FERS who had not been previously eligible to receive agency contributions is eligible to receive agency contributions the full second election period following the effective date of the appointment. If an employee is appointed during an election period, that election period is not counted as the first election period.

(b) *Employees previously eligible to receive agency contributions.* An employee reappointed to a position covered by FERS who was previously eligible to receive agency contributions is immediately eligible to receive agency contributions.

(c) Agency matching contributions that are attributable to the employee contributions made to the account of a FERS participant must change or terminate, as applicable, when the employee's contribution election becomes effective.

§ 1600.18 Effect of transfer to FERS.

(a) If an employee appointed to a position covered by CSRS elects to transfer to FERS, the employee may make a contribution election simultaneously with the election to transfer to FERS, or within 30 calendar days after the effective date of his or her transfer.

(b) Eligibility to make employee contributions, and therefore to have agency matching contributions made on the employee's behalf, is subject to the restrictions on making employee contributions after receipt of a financial hardship in-service withdrawal described at 5 CFR part 1650.

(c) If the employee had elected to make TSP contributions while covered by CSRS, the election continues to be valid until the employee makes a new valid election.

(d) Agency automatic (1%) contributions for all employees covered under this section and, if applicable, agency matching contributions attributable to employee contributions must begin the same pay period that the transfer to FERS becomes effective.

Subpart C—Program of Contributions

§ 1600.21 Contributions in whole numbers.

Employees may elect to contribute a percentage of basic pay or a dollar amount, subject to the limits described in § 1600.22. The election must be expressed in whole percentages or whole dollar amounts.

§ 1600.22 Maximum contributions.

(a) *Percentage of basic pay.* (1) Subject to paragraphs (b) and (c) of this section, the maximum FERS employee

contribution for 2001 is 11 percent of basic pay per pay period. The maximum contribution will increase one percent a year until 2005, after which the percentage of basic pay limit will not apply and the maximum contribution will be limited only as provided in paragraphs (b) and (c) of this section.

(2) Subject to paragraphs (b) and (c) of this section, the maximum CSRS employee contribution for 2001 is 6 percent of basic pay per pay period. The maximum contribution will increase one percent a year until 2005, after which the percentage of basic pay limit will not apply and the maximum contribution will be limited only as provided in paragraphs (b) and (c) of this section.

(b) *Internal Revenue Code (I.R.C.) limit on elective deferrals.* Section 402(g) of the I.R.C. (26 U.S.C. 402(g)) places a limit on the amount an employee may save on a tax-deferred basis through the TSP. Employee contributions to the TSP will be restricted to the I.R.C. limit; the TSP will not accept any contribution that exceeds the I.R.C. section 402(g) limit. If a participant contributes to the TSP and another plan, and the combined contributions exceed the I.R.C. section 402(g) limit, he or she may request a refund of employee contributions from the TSP to conform with the limit.

(c) *I.R.C. limit on contributions to qualified plans.* Section 415(c) of the I.R.C. (26 U.S.C. 415(c)) also places a limit on the amount an employee may save on a tax-deferred basis through the TSP. Employee contributions, described in this section, and employer contributions, described in § 1600.17, made to the TSP will be restricted to the I.R.C. section 415(c) limit. No employee contribution may be made to the TSP for any year to the extent that the sum of the employee contributions and the employer contributions for that year would exceed the I.R.C. section 415(c) limit.

§ 1600.23 Required reduction of contribution rates.

(a) The employing agency will reduce the contribution of any FERS or CSRS employee who has elected a whole dollar amount but whose elected contribution for any pay period exceeds any of the applicable maximum percentages set forth in § 1600.22. The employing agency will reduce the whole dollar amount to the highest whole dollar amount that does not exceed the applicable maximum percentage.

(b) An employing agency will not contribute to a participant's TSP account any amounts in excess of the limits referred to in § 1600.22(b) or (c).

Subpart D—Transfers From Other Qualified Retirement Plans

§ 1600.31 Accounts eligible for transfer.

Effective July 1, 2001, participants may transfer funds in the following types of accounts into their existing TSP accounts. This option is not available to participants who have already made a full withdrawal of their account or who are receiving monthly payments.

(a) *Qualified retirement plan.* For the purposes of this part, a qualified retirement plan is a qualified trust, described in section 401(a) of the I.R.C. (26 U.S.C. 401(a)), which is exempt from taxation under I.R.C. section 501(a) (26 U.S.C. 501(a)), or an annuity plan, described in section 403(a) of the I.R.C. (26 U.S.C. 403(a)).

(b) *Conduit individual retirement account (conduit IRA).* For the purposes of this part, a conduit IRA is an individual retirement account, described in I.R.C. section 408(a) (26 U.S.C. 408(a)), or an individual retirement annuity, described in I.R.C. section 408(b) (26 U.S.C. 408(b)), that contains only funds transferred or rolled over from a qualified retirement plan (and earnings on those amounts).

(c) *Eligible rollover distribution.* In order to be eligible for transfer to the TSP, distributions from accounts that qualify under either paragraph (a) or (b) of this section must also be eligible rollover distributions pursuant to I.R.C. section 402(c)(4) (26 U.S.C. 402(c)).

§ 1600.32 Methods for transferring account from qualified retirement plan or conduit IRA to TSP.

(a) *Trustee to trustee transfer.* Participants may request that the administrator of their qualified retirement plan or the custodian of their conduit IRA transfer any or all of their account directly to the TSP by completing and submitting a Form TSP-60, Request for a Rollover into the TSP, to the administrator or custodian and requesting that the transaction be completed.

(b) *Rollover by participant.* Participants who have already received a distribution from their plan or conduit IRA may roll over all or part of the distribution into the TSP in accordance with the following requirements:

(1) The participant must complete a Form TSP-60, Request for a Rollover into the TSP.

(2) The administrator of the qualified retirement plan or the custodian of the conduit IRA must certify on the TSP transfer form the amount and date of the distribution, and that the distribution is an eligible rollover distribution in accordance with I.R.C. section 402(c)(4).

(3) The participant must submit the completed Form TSP-60, together with a certified check, cashier's check, cashier's draft, money order, or treasurer's check from a credit union, made out to the Thrift Savings Plan for the entire amount of the rollover. A participant may roll over the full amount of the distribution by making up, from his or her own funds, the amount that was withheld from the distribution for the payment of federal taxes.

(4) The transaction must be completed within 60 days of the participant's receipt of the distribution from the retirement plan or conduit IRA. The transaction is not complete until the TSP record keeper receives the Form TSP-60, executed by both the participant and plan administrator or IRA custodian, together with the guaranteed funds for the amount to be rolled over.

§ 1600.33 Treatment accorded transferred funds.

(a) All funds transferred to the TSP pursuant to §§ 1600.31 and 1600.32 will be treated as employee contributions.

(b) All funds transferred to the TSP pursuant to §§ 1600.31 and 1600.32 will be invested in accordance with the participant's contribution allocation on file at the time the transfer is completed.

(c) Funds transferred to the TSP pursuant to §§ 1600.31 and 1600.32 are not subject to the limits on contributions described in § 1600.22.

[FR Doc. 01-7232 Filed 3-23-01; 8:45 am]

BILLING CODE 6760-01-P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1601

Participants' Choices of Investment Funds

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) proposes to revise the regulations on participants' choices of investment funds. This proposed rule implements a provision of the Thrift Savings Plan Act of 1996 which added two new investment funds to the Thrift Savings Plan (TSP). It also implements a decision by the Board to transfer the processing of contribution allocations from the employing agencies to the TSP record keeper.

DATES: Comments must be received on or before April 25, 2001.

ADDRESSES: Comments may be sent to: Elizabeth S. Woodruff, General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Salomon Gomez on (202) 942-1661; Merritt A. Willing on (202) 942-1666; or Patrick J. Forrest on (202) 942-1659. FAX (202) 942-1676.

SUPPLEMENTARY INFORMATION: The Board 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 provisions of FERSA have been codified, as amended, largely at 5 U.S.C. 8351 and 8401-8479. The TSP is a tax-deferred retirement savings plan for Federal employees, similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code. Sums in a TSP participant's account are held in trust for that participant.

On July 17, 1995, and September 14, 1995, the Board published in the **Federal Register** (60 FR 47836 and 60 FR 36630) final rules concerning participants' choices of investment funds. This proposed rule amends those rules.

The Thrift Savings Plan Act of 1996, Public Law 104-208, 110 Stat. 3009, authorized the creation of two new investment funds for the TSP. The new funds are the Small Capitalization Stock Index Fund (S Fund) and the International Stock Index Investment Fund (I Fund). The S Fund will comprise a portfolio designed to track the performance of an index of common stocks the aggregate market value of which represents the United States equity markets, excluding the common stocks held in the Common Stock Index Investment Fund (C Fund). The I Fund will comprise a portfolio designed to track the performance of common stocks the aggregate market value of which is a reasonably complete representation of the international equity markets, excluding the United States equity market. In addition to these new funds, participants will continue to have the option to invest in the Government Securities Investment Fund (G Fund), the Fixed Income Investment Fund (F Fund), and the Common Stock Index Investment Fund (C Fund). Effective May 1, 2001, the Board will modify its current record keeping system to incorporate these new funds and will also change the way contribution allocations are processed.

Analysis

The proposed rule eliminates §§ 1601.2(a), (c) and (d), 1601.4(b), and

1601.6 because those sections are obsolete. Sections 1601.3 and 1601.7 have been redesignated as § 1602.36; effective May 1, 2001, error correction will be processed in accordance with part 1605.

Proposed subpart A contains definitions relevant to participants' choices of investment funds, as it does currently. The definitions of allocation election, election form, and election period in the existing regulation are deleted as unnecessary. Other definitions, such as Board and CSRS, are deleted because they are not specifically applicable to participants' choices of investment funds.

In subpart B of the proposed regulation, the Board explains a new process for making a contribution allocation. Contribution allocations apply to future TSP contributions and loan payments. Currently, participants make a contribution election and a contribution allocation at the same time, on Form TSP-1; this form is submitted to the participant's employing agency. Participants will continue to use Form TSP-1 to make contribution elections and will submit that form to their employing agency. However, on May 1, 2001, when the new funds are implemented, contribution allocations will be submitted to the TSP record keeper following the procedures described in proposed Subpart B.

Subpart B includes a transition rule that explains how new contributions will initially be invested upon implementation of the new funds. This transition rule will apply to contributions and loan payments posted after April 30, 2001. In particular, § 1601.12 provides that beginning on May 1, 2001, contributions and loan payments for each TSP account will be invested based on the allocation of the most recent contribution posted to a participant's account between March 15 and April 30, 2001. If there was none, contributions and loan payments will be invested based upon any interfund transfer request pending for April 30, 2001. If there is no interfund transfer request pending for April 30, 2001, contributions and loan payments will be allocated based upon the participant's March 31, 2001 month-end account balance. If a participant's March month-end account balance is zero, his or her contributions and loan payments will be invested in the G Fund. This derived allocation will continue until a valid contribution allocation is received and processed.