

Proposed Rules

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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 1605

Breakage on Late Contributions, Makeup Contributions, and Loan Payments

AGENCY: Federal Retirement Thrift Investment Board.
ACTION: Proposed rule.

SUMMARY: The Federal Retirement Thrift Investment Board (FRTIB) proposes to permit the TSP record keeper to calculate gains and losses on late contributions, makeup contributions, loan payments even when the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00.

DATES: Comments must be received on or before February 18, 2025.

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) 864-7150. 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 tax-deferred retirement savings plan for Federal

civilian employees and members of the uniformed services. The TSP 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.

Under 5 U.S.C. 8432, the Executive Director of the FRTIB is directed to prescribe regulations to establish an error correction procedure for lost earnings that result from employing agencies' errors.

Employing agencies submit agency matching contributions, deduct employee contributions from participants' basic pay, and deduct loan payments from participants' basic pay. Employing agencies also submit makeup contributions to the TSP.

Contribution and loan payment information is submitted by employing agencies to the TSP record keeper using a payment record. Occasionally, a payment record is not submitted timely or contains an error. As a result, the participant's funds are unavailable for investment by the TSP record keeper and do not experience gains realized or losses incurred that they would have otherwise. These missed gains or losses are referred to as breakage.

Currently, § 1605.2(a)(1) says that the TSP does not calculate breakage if the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00. We believe this rule exists due to technological and administrative limitations that no longer exist and is, therefore, obsolete. This proposed rule would permit the TSP record keeper to calculate breakage even when the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00.

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, members of the uniformed services who participate in the TSP, and beneficiary participants.

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 in 5 CFR Part 1605

Claims, Government employees, Pensions, Retirement.

Suzanne Tosini,
Acting Executive Director, 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

■ 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 (a)(1) to read as follows:

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

* * * * *
(a) * * *

(1) The TSP record keeper will not calculate breakage if contributions or loan payments are posted within 30 days of the "as of" date; and

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