

will forfeit the death benefit payment to the Plan. The beneficiary can claim the forfeited funds, although they will not be credited with TSP investment returns.

(h) A properly paid death benefit payment cannot be returned to the TSP.

[62 FR 32429, June 13, 1997, as amended at 67 FR 49527, July 30, 2002; 68 FR 35510, June 13, 2003; 68 FR 74451, Dec. 23, 2003; 70 FR 32217, June 1, 2005]

§ 1651.15 Claims referred to the Board.

(a) *Contested claims.* Any challenge to a proposed death benefit payment must be filed in writing with the TSP record keeper before payment. All contested claims will be referred to the Board. The Board may also consider issues on its own.

(b) *Payment deferred.* No payment will be made until the Board has resolved the claim.

§ 1651.16 Missing and unknown beneficiaries.

(a) *Locate and identify beneficiaries.* (1) The TSP record keeper will attempt to identify and locate all potential beneficiaries.

(2) If a beneficiary is not identified and located, and at least one year has passed since the date of the participant's death, the beneficiary will be treated as having predeceased the participant and the beneficiary's share will be paid in accordance with § 1651.10

(b) *Payment to known beneficiaries.* If all potential beneficiaries are known but one or more beneficiaries (and not all) appear to be missing, payment of part of the participant's account may be made to the known beneficiaries. The lost or unidentified beneficiary's share may be paid in accordance with paragraph (a) of this section at a later date.

(c) *Abandoned account.* If no beneficiaries of the account are located, the account will be considered abandoned and the funds will revert to the TSP. If there are multiple beneficiaries and one or more of them refuses to cooperate in the Board's search for the missing beneficiary, the missing beneficiary's share will be considered abandoned. In such circumstances, the account can be reclaimed if the missing beneficiary is found at a later date.

However, earnings will not be credited from the date the fund is abandoned. The TSP may require the beneficiary to apply for the death benefit with a TSP form and submit proof of identity and relationship to the participant.

[62 FR 32429, June 13, 1997, as amended at 70 FR 32217, June 1, 2005]

§ 1651.17 Disclaimer of benefits.

(a) *Right to disclaim.* The beneficiary of a TSP account may disclaim his or her right to receive all or part of a TSP death benefit. If the disclaimant is a minor, the parent or guardian of the minor must sign the disclaimer.

(b) *Valid disclaimer.* The disclaimer must expressly state that the beneficiary is disclaiming his or her right to receive either all or a stated percentage of the death benefit payable from the TSP account of the named participant and must be:

- (1) Submitted in writing;
- (2) Signed by the person (or legal representative) disclaiming the benefit; and
- (3) Received before the TSP pays the death benefit.

(c) *Invalid disclaimer.* A disclaimer is invalid if it is revocable or directs to whom the disclaimed benefit should be paid.

(d) *Disclaimer effect.* The disclaimed share will be paid as though the beneficiary predeceased the participant, according to the rules set forth in § 1651.10.

[68 FR 35510, June 13, 2003]

§ 1651.18 Payment to one bars payment to another.

Payment made to a beneficiary(ies) in accordance with this part, based upon information received before payment, bars any claim by any other person.

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

Subpart A—Retirement Benefits Court Orders

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AUTHORITY: 5 U.S.C. 8435, 8436(b), 8437(e), 8439(a)(3), 8467, 8474(b)(5) and 8474(c)(1).

SOURCE: 68 FR 35510, June 13, 2003, unless otherwise noted.

Subpart A—Retirement Benefits Court Orders

§ 1653.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

Court means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by 25 U.S.C. 1301(3).

Effective date of a court order means the date it was entered by the clerk of the court or, if the order does not show a date entered, the date it was filed by the clerk of the court or, if the order does not contain a date entered or a date filed, the date it was signed by the judge.

Retirement benefits court order or *order* means a court decree of divorce, annulment or legal separation, or a court order or court-approved property settlement agreement incident to such a decree. Orders may be issued at any stage of a divorce, annulment, or legal separation proceeding.

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§ 1653.2 Qualifying retirement benefits court orders.

(a) To be qualifying, and thus enforceable against the TSP, a retirement benefits court order must meet the following requirements:

(1) The order must expressly relate to the Thrift Savings Plan account of a TSP participant. This means that:

(i) The order must expressly refer to the “Thrift Savings Plan” or describe the TSP in such a way that it cannot be confused with other Federal Government retirement benefits or non-Federal retirement benefits;

(ii) The order must be written in terms appropriate to a defined contribution plan rather than a defined benefit plan. For example, it should generally refer to the participant’s TSP account or TSP account balance rather than a benefit formula or the participant’s eventual benefits; and

(iii) If the participant has a civilian TSP account and a uniformed services TSP account, the order must expressly identify the account to which it relates.

(2) The order must either require the TSP to freeze the participant’s account to preserve the *status quo* pending final resolution of the parties’ rights to the participant’s TSP account, or to make a payment from the participant’s account to a permissible payee.

(3) If the order requires a payment from the participant’s account, the award must be for:

(i) A specific dollar amount;

(ii) A stated percentage or fraction of the account; or

(iii) A survivor annuity as provided in 5 U.S.C. 8435(d).

(iv) The following examples would qualify to require payment from the TSP, although ambiguous or conflicting language used elsewhere could cause the order to be rejected.

Example (1). ORDERED: [payee’s name, Social Security number (SSN), and address] is awarded \$ _____ from the [civilian or uniformed services] Thrift Savings Plan account of [participant’s name, SSN, and address].

Example (2). ORDERED: [payee’s name, SSN, and address] is awarded _____% of the [civilian and/or uniformed services] Thrift Savings Plan account[s] of [participant’s name, SSN, and address] as of [date].

Example (3). ORDERED: [payee’s name, SSN, and address] is awarded [fraction] of

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the [civilian and/or uniformed services] Thrift Savings Plan account[s] of [participant's name, SSN, and address] as of [date].

NOTE: The following optional language can be used in conjunction with any of the above examples. FURTHER ORDERED: Earnings will be paid on the amount of the entitlement under this ORDER until payment is made.

(4) A court order can require a payment only to a spouse, former spouse, child or dependent of a participant.

(b) The following retirement benefits court orders are not qualifying and thus are not enforceable against the TSP:

(1) An order relating to a TSP account that has been closed;

(2) An order relating to a TSP account that contains only nonvested money, unless the money will become vested within 30 days of the date the TSP receives the order if the participant were to remain in Federal service;

(3) An order requiring the return to the TSP of money that was properly paid pursuant to an earlier court order;

(4) An order requiring the TSP to make a payment in the future, unless the present value of the payee's entitlement can be calculated, in which case the TSP will make the payment currently; and

(5) An order that does not specify the account to which the order applies, if the participant has both a civilian TSP account and a uniformed services TSP account.

[68 FR 35510, June 13, 2003, as amended at 69 FR 29851, May 26, 2004; 71 FR 54893, Sept. 20, 2006]

§ 1653.3 Processing retirement benefits court orders.

(a) The payment of a retirement benefits court order from the TSP is governed solely by FERSA and by the terms of this subpart. The TSP will honor retirement benefits court orders properly issued by a court (as defined in §1653.1). However, those courts have no jurisdiction over the TSP and the TSP cannot be made a party to the underlying domestic relations proceedings.

(b) The TSP will review a retirement benefits court order to determine whether it is enforceable against the TSP only after the TSP has received a complete copy of the document. Re-

ceipt by an employing agency or any other agency of the Government does not constitute receipt by the TSP. Retirement benefits court orders should be submitted to the TSP record keeper at the current address as provided at <http://www.tsp.gov>. Receipt by the TSP record keeper is considered receipt by the TSP. To be complete, a court order must be written in English or be accompanied by a certified English translation and contain all pages and attachments; it must also provide (or be accompanied by a document that provides):

(1) The participant's Social Security number (SSN);

(2) The name and last known mailing address of each payee covered by the order; and

(3) The payee's SSN and state of legal residence if he or she is the current or former spouse of the participant.

(c) As soon as practicable after the TSP receives a document that purports to be a qualifying retirement benefits court order, whether or not complete, the participant's account will be frozen. After the account is frozen, no withdrawal or loan disbursements (other than a required minimum distribution pursuant to section 401(a)(9) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)) will be allowed until the account is unfrozen. All other account activity will be permitted.

(d) The following documents do not purport to be qualifying retirement benefits court orders, and accounts of participants to whom such orders relate will not be frozen:

(1) A document that does not indicate on its face (or is not accompanied by a document that establishes) that it has been issued or approved by a court;

(2) A court order relating to a TSP account that has been closed;

(3) A court order dated before June 6, 1986;

(4) A court order that does not award all or any part of the TSP account to someone other than the participant; and

(5) A court order that does not mention retirement benefits.

(e) After the participant's account is frozen, the TSP will review the document further to determine if it is complete; if the document is not complete,

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the TSP will request a complete document. If a complete copy is not received within 30 days of that request, the account will be unfrozen and no further action will be taken with respect to the document.

(f) The TSP will review a complete copy of an order to determine whether it is a qualifying retirement benefits court order as described in § 1653.2. The TSP will mail a decision letter to all parties containing the following information:

(1) A determination regarding whether the court order is qualifying;

(2) A statement of the applicable statutes and regulations;

(3) An explanation of the effect the court order has on the participant's TSP account; and

(4) If the qualifying order requires payment, the letter will provide:

(i) An explanation of how the payment will be calculated and an estimated amount of payment;

(ii) The anticipated date of payment;

(iii) Tax information and income tax withholding forms to the person responsible for paying Federal income tax on the payment;

(iv) Information and the form needed to transfer the payment to an eligible employer plan or traditional IRA (if the payee is the current or former spouse of the participant); and

(v) Information and the form needed to receive the payment through an electronic funds transfer (EFT).

(g) The TSP decision letter is a final determination of the parties' rights in the account. There is no administrative appeal from the TSP decision.

(h) An account frozen under this section will be unfrozen as follows:

(1) If the account was frozen upon receipt of an incomplete order, the account will be unfrozen if a complete order is not received within 30 days of the date of the request described in paragraph (e) of this section;

(2) If the account was frozen in response to an order issued to preserve the *status quo* pending final resolution of the parties' rights to the participant's TSP account, the account will be unfrozen if the TSP receives a court order that vacates or supersedes the previous order (unless the order vacating or superseding the order itself

qualifies to place a freeze on the account). A court order that purports to require a payment from the TSP supersedes an order issued to preserve the *status quo*, even if it does not qualify to require a payment from the TSP;

(3) If the account was frozen in response to an order purporting to require a payment from the TSP, the freeze will be lifted:

(i) Once payment is made, if the court order is qualifying; or

(ii) Forty-five (45) days after the date of the TSP decision letter if the court order is not qualifying. The 45-day period will be terminated, and the account will be unfrozen, if both parties submit to the TSP a written request for such a termination.

(i) The TSP will hold in abeyance the processing of a court-ordered payment if the TSP is notified in writing that the underlying court order has been appealed, and that the effect of the filing of the appeal is to stay the enforceability of the order.

(1) In the notification, the TSP must be provided with proper documentation of the appeal and citations to legal authority, which address the effect of the appeal on the enforceability of the underlying court order.

(i) If the TSP receives proper documentation and citations to legal authority which demonstrate that the underlying court order is not enforceable, the TSP will inform the parties that the payment will not occur until resolution of the appeal, and the account will remain frozen for loans and withdrawals.

(ii) In the absence of proper documentation and citations to legal authority, the TSP will presume that the provisions relating to the TSP in the court order remain valid and will proceed with the payment process.

(2) The TSP must be notified in writing of the disposition of the appeal before the freeze will be removed from the participant's account or a payment will be made. The notification must include a complete copy of an order from the appellate court explaining the effect of the appeal on the participant's account.

(j) Multiple qualifying court orders relating to the same TSP account and

received by the TSP will be processed as follows:

(1) If the orders make awards to the same payee or payees and do not indicate that the awards are cumulative, the TSP will only honor the order bearing the latest effective date.

(2) If the orders relate to different former spouses of the participant and award survivor annuities, the TSP will honor them in the order of their effective dates.

(3) If the orders relate to different payees and award fixed dollar amounts, percentages or fractions of an account, or portions of an account calculated by the application of formulae, the orders will be honored:

(i) In the order of their receipt by the TSP, if received by the TSP on different days; or

(ii) In the order of their effective dates, if received by the TSP on the same day.

(4) In all other cases, the TSP will honor multiple qualifying court orders relating to the same TSP account in the order of their receipt by the TSP.

[68 FR 35510, June 13, 2003, as amended at 69 FR 29851, May 26, 2004; 71 FR 50320, Aug. 25, 2006]

§ 1653.4 Calculating entitlements.

(a) For purposes of computing the amount of a payee's entitlement under this section, a participant's TSP account balance will include any loan balance outstanding as of the date used for calculating the payee's entitlement, unless the court order provides otherwise.

(b) If the court order awards a percentage or fraction of an account as of a specific date, the payee's entitlement will be calculated based on the account balance as of that date. If the date specified in the order is not a business day, the TSP will use the participant's account balance as of the last preceding business day.

(c) If the court order awards a percentage or fraction of an account but does not contain a specific date as of which to apply that percentage or fraction, the TSP will use the effective date of the order.

(d) If the court order awards a specific dollar amount, the payee's entitlement will be the lesser of:

(1) The dollar amount stated in the court order; or

(2) The vested account balance on the date of disbursement.

(e) If a court order describes a payee's entitlement in terms of a fixed dollar amount and a percentage or fraction of the account, the TSP will pay the fixed dollar amount, even if the percentage or fraction, when applied to the account balance, would yield a different result.

(f) The payee's entitlement will be credited with TSP investment earnings as described:

(1) The entitlement calculated under this section will not be credited with TSP investment earnings unless the court order specifically provides otherwise.

(2) If earnings are awarded and a rate is specified, the rate must be expressed as an annual percentage rate or as a *per diem* dollar amount added to the payee's entitlement.

(3) If earnings are awarded and the rate is not specified, the TSP will credit the payee's entitlement with the rate of return for the G Fund.

(4) Earnings at the G Fund rate will accrue on a monthly basis through May 31, 2003, beginning with the month following the entitlement date; thereafter, G Fund earnings will accrue on a daily basis, beginning with the business day following the date used for calculating the payee's entitlement (or beginning June 1, 2003, if interest or earnings commence before June 1, 2003) and ending 2 business days before payment is made.

(g) The TSP will estimate the amount of a payee's entitlement when it prepares the court order decision letter and will recalculate the entitlement at the time of payment. The recalculation may differ from the initial estimation because:

(1) The estimation of the payee's entitlement includes both vested and nonvested amounts in the participant's account. If, at the time of payment, the nonvested portion of the account has not become vested, the recalculated entitlement will apply only to the participant's vested account balance;

(2) After the estimate of the payee's entitlement is prepared, the TSP may

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process account transactions that have an effective date on or before the date used to compute the payee's entitlement. Those transactions will be included when the payee's entitlement is recalculated at the time of payment; and

(3) The amount available for payment from the account may be reduced due to changes in share price (*i.e.*, investment losses).

§ 1653.5 Payment.

(a) Payment pursuant to a qualifying retirement benefits court order ordinarily will be made 60 days after the date of the TSP decision letter. This is intended to permit the payee sufficient time to consider decisions about tax withholding, payment by EFT, and transfer options. An earlier distribution may be made as follows:

(1) If the payee is the current or former spouse of the participant, the payee can request to receive the payment sooner than 60 days by making a tax withholding election, by requesting a payment by EFT, or by requesting a transfer of all or a portion of the payment to a traditional IRA or eligible employer plan. The TSP decision letter will provide the forms a payee must use to choose one of these payment options.

(2) If the payee is someone other than the current or former spouse of the participant, the participant can request a disbursement sooner than 60 days by making a tax withholding election on forms provided to the participant with the TSP decision letter.

(3) If the court order makes an award to multiple payees, a disbursement may be made earlier than 60 days only if requests for expedited payment are received from all of the payees.

(4) In no event will payment be made earlier than 31 days after the date of the TSP decision letter.

(b) In no case will payment exceed the participant's vested account balance, minus any outstanding loan balance.

(c) The entire amount of a court order payee's entitlement must be disbursed at one time. A series of payments will not be made, even if the court order provides for such a method of payment. A payment pursuant to a

court order extinguishes all rights to any further payment under that order, even if the entire amount of the entitlement cannot be paid. Any further award must be contained in a separate court order.

(d) Payment will be made *pro rata* from all TSP Funds in which the account is invested, based on the balance in each fund on the date payment is made, and from both tax-deferred and tax-exempt balances, if any. The TSP will not honor provisions of a court order that require payment to be made from specific TSP Funds or contribution sources. A court order may, however, specify a particular payment from the tax-exempt balance of a uniformed services TSP account.

(e) Payment will be made only to the person or persons specified in the court order.

(1) If payment is made to the current or former spouse of the participant, the distribution will be reported to the Internal Revenue Service (IRS) as income to the payee. If the court order specifies a third-party mailing address for the payment, the TSP will mail to the address specified any portion of the payment that is not transferred to a traditional IRA or eligible employer plan.

(2) If the payment is made to anyone other than the current or former spouse of the participant, the payment is taxable to the participant and is subject to Federal income tax withholding by the participant. The participant can elect the amount to be withheld by filing with the TSP the forms provided to the participant with the decision letter. The tax withholding will be taken from the payee's entitlement and the gross amount of the payment (*i.e.*, the net payment distributed to the payee plus the amount withheld from the payment for taxes) will be reported to the IRS as income to the participant.

(f) Payment will not be made jointly to two or more persons. If the court order requires payments to more than one person, the order must separately indicate the amount to be paid to each.

(g) If there are insufficient funds to pay each court order payee, payment will be made as follows:

(1) If the order specifies an order of precedence for the payments, the TSP will honor it.

(2) If the order does not specify an order of precedence for the payments, the TSP will pay a current or former spouse first, a dependent second, and an attorney third.

(h) If the payee dies before a payment is disbursed, payment will be made to the estate of the payee, unless otherwise specified by the court order. A distribution to the estate of a deceased court order payee will be reported as income to the decedent's estate. If the participant dies before payment is made, the order will be honored so long as it is submitted to the TSP before the TSP account has been closed.

(i) If the parties to a divorce or annulment have remarried each other, or a legal separation is terminated, a new court order will be required to prevent payment pursuant to a previously submitted qualifying retirement benefits court order.

(j) Payment to a person (including the estate of the payee) pursuant to a qualifying retirement benefits court order made in accordance with this subpart bars recovery by any other person claiming entitlement to the payment.

(k) If a court ordered payment is returned as undeliverable, the TSP record keeper will attempt to locate the payee by writing to his or her TSP database address. If the payee does not respond within 60 days, the TSP will forfeit the funds to the Plan. The payee can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

(l) A properly paid court order payment cannot be returned to the TSP.

[68 FR 35510, June 13, 2003, as amended at 68 FR 74451, Dec. 23, 2003; 70 FR 32217, June 1, 2005]

Subpart B—Legal Process for the Enforcement of a Participant's Legal Obligations To Pay Child Support or Alimony Currently

§ 1653.11 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1600.1.

(b) As used in this subpart:

Alimony means the payment of funds for the support and maintenance of a spouse or former spouse. Alimony includes separate maintenance, alimony *pendente lite*, maintenance, and spousal support. Alimony can also include attorney fees, interest, and court costs, but only if these items are expressly made recoverable by qualifying legal process, as described in §1653.12.

Child support means payment of funds for the support and maintenance of a child or children of the participant. Child support includes payments to provide for health care, education, recreation, clothing, or to meet other specific needs of a child or children. Child support can also include attorney fees, interest, and court costs, but only if these items are expressly made recoverable by qualifying legal process, as described in §1653.12.

Competent authority means a court or an administrative agency of competent jurisdiction in any State, territory or possession of the United States; a court or administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor the process; or an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction pursuant to state or local law.

Legal process means a writ, order, summons, or other similar process in the nature of a garnishment, which is brought to enforce a participant's legal obligations to pay child support or alimony currently.

§ 1653.12 Qualifying legal processes.

(a) The TSP will only honor the terms of a legal process that is qualifying under paragraph (b) of this section.

(b) A legal process must meet each of the following requirements to be considered qualifying:

(1) A competent authority must have issued the legal process;

(2) The legal process must expressly relate to the Thrift Savings Plan account of a TSP participant, as described in §1653.2(a)(1);

(3) The legal process must require the TSP to:

(i) Pay a stated dollar amount from a participant's TSP account; or

(ii) Freeze the participant's account in anticipation of an order to pay from the account.

(c) The following legal processes are not qualifying:

(1) A legal process relating to a TSP account that has been closed;

(2) A legal process relating to a TSP account that contains only nonvested money, unless the money will become vested within 30 days of the date the TSP receives the order if the participant were to remain in Federal service;

(3) A legal process requiring the return to the TSP of money that was properly paid pursuant to an earlier legal process;

(4) A legal process requiring the TSP to make a payment in the future; and

(5) A legal process requiring a series of payments.

§ 1653.13 Processing legal processes.

(a) The payment of legal processes from the TSP is governed solely by the Federal Employees' Retirement System Act, 5 U.S.C. chapter 84, and by the terms of this subpart. Although the TSP will honor legal processes properly issued by a competent authority, those entities have no jurisdiction over the TSP and the TSP cannot be made a party to the underlying proceedings.

(b) The TSP will review a legal process to determine whether it is enforceable against the TSP only after the TSP has received a complete copy of the document. Receipt by an employing agency or any other agency of the Government does not constitute receipt by the TSP. Legal processes should be submitted to the TSP record keeper at the current address as provided at <http://www.tsp.gov>. Receipt by the TSP record keeper is considered receipt by the TSP. To be complete, a

legal process must contain all pages and attachments; it must also provide (or be accompanied by a document that provides):

(1) The participant's Social Security number (SSN);

(2) The name and last known mailing address of each payee covered under the order; and

(3) The SSN and state of legal residence of the payee if he or she if the current or former spouse of the participant.

(c) As soon as practicable after the TSP receives a document that purports to be a qualifying legal process, whether or not complete, the participant's account will be frozen. After the account is frozen, no withdrawal or loan disbursements will be allowed until the account is unfrozen. All other account activity will be permitted, including contributions, loan repayments, adjustments, contribution allocations and interfund transfers.

(d) The following documents will not be treated as purporting to be a qualifying legal processes, and accounts of participants to whom such orders relate will not be frozen:

(1) A document that does not indicate on its face (or accompany a document that establishes) that it has been issued by a competent authority;

(2) A legal process relating to a TSP account that has been closed; and

(3) A legal process that does not relate either to the TSP or to the participant's retirement benefits.

(e) After the participant's account is frozen, the TSP will review the document further to determine if it is complete; if the document is not complete, the TSP will request a complete document. If a complete copy is not received by the TSP within 30 days of that request, the account will be unfrozen and no further action will be taken with respect to the document.

(f) As soon as practicable after receipt of a complete copy of a legal process, the TSP will review it to determine whether it is a qualifying legal process as described in §1653.12. The TSP will mail a decision letter to all parties containing the same information described at §1653.3(f).

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(g) The TSP decision letter is final. There is no administrative appeal from the TSP decision.

(h) An account frozen under this section will be unfrozen as follows:

(1) If a complete document has not been received within 30 days of the date of a request described in paragraph (e) of this section;

(2) If the account was frozen pursuant to a legal process requiring the TSP to freeze the participant's account in anticipation of an order to pay from the account, the account will be unfrozen if any one of the following events occurs:

(i) As soon as practicable after the TSP receives a complete copy of an order vacating or superseding the preliminary order (unless the order vacating or superseding the preliminary order qualifies to place a freeze on the account);

(ii) Upon payment pursuant to the order to pay from the account, if the TSP determines that the order is qualifying; or

(iii) As soon as practicable after the TSP issues a decision letter informing the parties that the order to pay from the account is not a qualifying legal process;

(3) If the account was frozen after the TSP received a document that purports to be a legal process requiring payment from the participant's account, the account will be unfrozen:

(i) Upon payment pursuant to a qualifying legal process; or

(ii) As soon as practicable after the TSP informs the parties that the document is not a qualifying legal process.

(i) The TSP will hold in abeyance the processing of a payment required by legal process if the TSP is notified in writing that the legal process has been appealed, and that the effect of the filing of the appeal is to stay the enforceability of the legal process. The notification must be accompanied by the documentation and citations to legal authority described at § 1653.3(i).

(j) Multiple qualifying legal processes relating to the same TSP account and received by the TSP will be processed as follows:

(1) If the legal processes make awards to the same payee or payees and do not indicate that the awards are cumulative, the TSP will only honor the

legal process bearing the latest effective date.

(2) If the legal processes relate to different payees, the legal process will be honored:

(i) In the order of their receipt by the TSP, if received by the TSP on different days; or

(ii) In the order of their effective dates, if received by the TSP on the same day.

[68 FR 35510, June 13, 2003, as amended at 71 FR 50320, Aug. 25, 2006]

§ 1653.14 Calculating entitlements.

A qualifying legal process can only require the payment of a specified dollar amount from the TSP. Payment pursuant to a qualifying legal process will be calculated in accordance with § 1653.4(a), (d), (f) and (g).

§ 1653.15 Payment.

Payment pursuant to a qualifying legal process will be made in accordance with § 1653.5.

Subpart C—Child Abuse Court Orders

§ 1653.21 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

Child means an individual less than 18 years of age.

Judgment against a participant for physically, sexually, or emotionally abusing a child means any legal claim perfected through a final enforceable judgment which is based in whole or in part upon the physical, sexual, or emotional abuse of a child, whether or not that abuse is accompanied by other actionable wrongdoing, such as sexual exploitation or gross negligence.

§ 1653.22 Purpose.

Under 5 U.S.C. 8437(e)(3) and 8467(a)(2), the TSP will honor a court order or other similar process in the nature of a garnishment that is brought to enforce a judgment against a participant for physically, sexually, or emotionally abusing a child.

§ 1653.23 Processing and payment.

To the maximum extent consistent with sections 8437(e)(3) and 8467(a)(2), child abuse court orders will be processed by the TSP under the procedures described in subparts A and B of this part.

PART 1655—LOAN PROGRAM

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

SOURCE: 68 FR 35515, June 13, 2003, unless otherwise noted.

§ 1655.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

Amortization means the reduction in a loan by periodic payments of principal and interest according to a schedule of payments.

Date of application means the day on which the TSP record keeper receives the loan application, either electronically or on the TSP Web site or on a paper TSP form.

General purpose loan means any TSP loan other than a loan for the purchase or construction of a primary residence.

Guaranteed funds means a cashier's check, money order, certified check (i.e., a check certified by the financial institution on which it is drawn), cashier's draft, or treasurer's check from a credit union.

Loan issue date means the date on which the TSP record keeper disburses funds from the participant's account for the loan amount.

Loan repayment period means the time over which payments that are required to repay a loan in full are scheduled.

Principal or *principal amount* means the amount borrowed by a participant from his or her individual account, or, after reamortization, the amount financed.

Reamortization means the recalculation of periodic payments of principal and interest.

Residential loan means a TSP loan for the purchase or construction of a primary residence.

Taxable distribution means the amount of outstanding principal and interest on a loan which must be reported to the Internal Revenue Service as taxable income as a result of the failure of a participant to repay a loan in full, according to the terms of the loan agreement.

[68 FR 35515, June 13, 2003, as amended at 70 FR 32217, June 1, 2005]

§ 1655.2 Eligibility for loans.

A participant can apply for a TSP general purpose or residential loan if:

(a) More than 60 calendar days have elapsed since the participant has repaid in full a TSP loan of the same type.

(b) The participant is in pay status;

(c) The participant is eligible to contribute to the TSP (or would be eligible to contribute but for the suspension of the participant's contributions because he or she obtained a financial hardship in-service withdrawal);

(d) The participant has at least \$1,000 in employee contributions and attributable earnings in his or her account; and

(e) The participant has not had a TSP loan declared a taxable distribution within the last 12 months for any reason other than a separation from Government service.

[69 FR 29852, May 26, 2004, as amended at 70 FR 32218, June 1, 2005]

§ 1655.3 Information concerning the cost of a loan.

Information concerning the cost of a loan is provided in the booklet TSP