

§ 1655.21

of the purchase costs that is borne by the participant will be considered in making the loan. A residential loan will not be made for the purpose of paying off an existing mortgage or otherwise providing financing for a primary residence purchased more than 2 years before the date of the loan application.

(b) The participant's primary residence is his or her principal residence. A primary residence may include a house, a townhouse, a condominium, a share in a cooperative housing corporation, a mobile home, a boat, or a recreational vehicle; a primary residence does not include a second home or vacation home. A participant cannot have more than one primary residence.

(c) Purchase of a primary residence means acquisition of the residence through the exchange of cash or other property or through the total construction of a new residence. A residential loan will not be made for a lease-to-buy option, unless the option to buy is being exercised. Construction of an addition to or the renovation of a residence or the purchase of land only does not constitute the purchase of a primary residence.

(d) Related purchase costs are any costs that are incurred directly as a result of the purchase or construction of a residence and which can be added to the basis of the residence for Federal tax purposes. Points or loan origination fees charged for a loan, whether or not they are treated as part of the basis, are not considered a purchase cost. Real estate taxes cannot be included.

(e) The documentation required for a loan under this section is as follows:

(1) For all purchases, except for construction, a copy of a home purchase contract or a settlement sheet; or

(2) For construction, a home construction contract. If a single home construction contract is unavailable, other contracts, building permits, receipts, assessments, or other documentation that demonstrates the construction of an entire primary residence and expenses in the amount of the loan may be accepted at the discretion of the Executive Director.

(f) The documentation provided under this section must:

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- (1) Be from a third party;
- (2) Show the participant as the purchaser or builder;
- (3) Show the purchase price or construction price;
- (4) Show the full address of the residence; and
- (5) Bear a date that is no more than 24 months preceding the expiration date of the loan agreement.

§ 1655.21 Loan fee.

The TSP will charge a participant a \$50.00 loan fee when it disburses the loan and will deduct the fee from the proceeds of the loan.

[69 FR 29852, May 26, 2004]

PART 1690—THRIFT SAVINGS PLAN

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Subpart A—General

§ 1690.1 Definitions.

As used in this chapter:

Account or *individual account* means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a). The TSP offers four types of accounts: civilian participant accounts, uniformed services accounts, civilian beneficiary participant accounts, and uniformed services beneficiary participant accounts. Each type of account may contain a traditional balance, a Roth balance, or both.

Account balance means the sum of the dollar balances for each source of contributions in each TSP Fund for an individual account. The dollar balance in each fund on a given day is the product of the total number of shares in that

fund multiplied by the share price for the fund on that day.

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. For members of the uniformed services, it is basic pay payable under 37 U.S.C. 204 and compensation received under 37 U.S.C. chapter 206.

Beneficiary participant means a spouse beneficiary for whom the TSP maintains a beneficiary participant account pursuant to 5 U.S.C. 8433(e) and in accordance with 5 CFR 1651.19.

Beneficiary participant account means an account maintained pursuant to 5 U.S.C. 8433(e) and in accordance with 5 CFR 1651.19. The term includes both civilian beneficiary participant accounts and uniformed services beneficiary participant accounts.

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

Bonus contributions means contributions made by a participant from a bonus as defined in 37 U.S.C. chapter 5.

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C).

Catch-up contributions means TSP contributions from basic pay that are made by participants age 50 and over, which exceed the elective deferral limit of 26 U.S.C. 402(g) and meet the requirements of 5 CFR 1600.23.

Civilian account means a TSP account to which contributions have been made by or on behalf of a civilian employee.

Civilian beneficiary participant account means a beneficiary participant account that is established with a death benefit payment from a TSP account to which contributions were made by or on behalf of a civilian employee.

Civilian employee means a TSP participant covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or equivalent retirement plan.

Contribution allocation means the participant's apportionment of his or her future contributions, loan payments, and transfers or rollovers from eligible employer plans or traditional IRAs among the TSP Funds.

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

Court of competent jurisdiction means the 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).

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 as established by the current employing agency.

Day means calendar day, unless otherwise stated.

Eligible employer plan means a plan qualified under I.R.C. section 401(a) (26 U.S.C. 401(a)), including a section 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money purchase plan; an annuity plan described in I.R.C. section 403(a) (26 U.S.C. 403(a)); an annuity contract described in I.R.C. section 403(b) (26 U.S.C. 403(b)); and an eligible deferred compensation plan described in I.R.C. section 457(b) (26 U.S.C. 457(b)) which is maintained by an eligible employer described in I.R.C. section 457(e)(1)(A) (26 U.S.C. 457(e)(1)(A)).

Employee contributions means traditional contributions and Roth contributions. Employee contributions are made at the participant's election pursuant to § 1600.12 and are deducted from compensation paid to the employee.

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) or 5 U.S.C. 8440e(e).

Employing agency means the organization (or the payroll office that services the organization) that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual. It includes the uniformed services and their servicing payroll office(s).

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

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B).

Federal civilian retirement system means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, or any equivalent Federal civilian retirement system.

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.

FERSA means the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The provisions of FERSA that govern the TSP are codified primarily in subchapters III and VII of Chapter 84 of Title 5, United States Code.

Former spouse means (as defined at 5 U.S.C. 8401(12)) the former spouse of a TSP participant if the participant performed at least 18 months of civilian service creditable under 5 U.S.C. 8411 as an employee or member, and if the participant and former spouse were married to one another for at least nine months.

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A).

G Fund interest rate means the interest rate computed under 5 U.S.C. 8438(e)(2).

I Fund means the International Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(E).

In-service withdrawal request means a properly completed withdrawal election for either an age-based in-service withdrawal or a financial hardship in-service withdrawal, on any form required by the TSP, together with the supporting documentation required by the application.

Plan participant or *participant* means any person with an account (other than a beneficiary participant account) in the Thrift Savings Plan or who would have an account (other than a beneficiary account) but for an employing agency error.

Post-employment withdrawal request means a properly completed withdrawal election on any form required by the TSP in order for a participant to elect a post-employment withdrawal of his or her account balance.

Posting means the process of crediting or debiting transactions to an individual account.

Posting date means the date on which a transaction is credited or debited to a participant's account.

Ready Reserve means those members of the uniformed services described at 10 U.S.C. 10142.

Regular employee contributions mean TSP contributions from taxable basic pay that are subject to the Internal Revenue Code limits on elective deferrals and contributions to qualified plans (26 U.S.C. 402(g) and 415(c), respectively), and the maximum contribution percentage limits of 5 U.S.C. 8351(b), 5 U.S.C. 8432(a), or 5 U.S.C. 8440f(a).

Roth 5 year non-exclusion period means the period of five consecutive calendar years beginning on the first day of the calendar year in which the participant's Roth initiation date occurs. It is the period described in section 402A(d)(2)(B) of the Internal Revenue Code.

Roth balance means the sum of:

- (1) Roth contributions and associated earnings; and
- (2) Amounts transferred to the TSP from a Roth account maintained by an eligible employer plans and earnings on those amounts.

Roth contributions means employee contributions made to the participant's Roth balance which are authorized by 5 U.S.C. 8432d. Roth contributions may be deducted from taxable pay on an after-tax basis or from pay exempt from taxation under 26 U.S.C. 112.

Roth initiation date means

(1) The earlier of:

(i) The actual date of a participant's first Roth contribution to the TSP;

(ii) The "as of" date or attributable pay date (as defined in §1605.1 of this subchapter) that established the date of the participant's first Roth contribution to the TSP; or

(iii) The date used, by a plan from which the participant directly transferred Roth money into the TSP, to measure the participant's Roth five year non-exclusion period.

(2) If a participant has a civilian account and a uniformed services account, the Roth initiation date for both accounts will be the same.

Roth IRA means an individual retirement plan described in Internal Revenue Code section 408A (26 U.S.C. 408A).

S Fund means the Small Capitalization Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(D).

Separation from Government service means generally the cessation of employment with the Federal Government. For civilian employees it means termination of employment with 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. For uniformed services members, it means the discharge from active duty or the Ready Reserve or the transfer to inactive status or to a retired list pursuant to any provision of title 10 of the United States Code. The discharge or transfer may not be followed, before the end of the 31-day period beginning on the day following the effective date of the discharge, by resumption of active duty, an appointment to a civilian position covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or an equivalent retirement system, or continued service in or affiliation with the Ready Reserve. Reserve component members serving on full-time active

duty who terminate their active duty status and subsequently participate in the drilling reserve are said to continue in the Ready Reserve. Active component members who are released from active duty and subsequently participate in the drilling reserve are said to affiliate with the Ready Reserve.

Share means a portion of a TSP Fund. Transactions are posted to accounts in shares at the share price of the date the transaction is posted. The number of shares for a transaction is calculated by dividing the dollar amount of the transaction by the share price of the appropriate date for the fund in question. The number of shares is computed to four decimal places.

Share price means the value of a share in a TSP Fund. The share price is calculated separately for each fund for each business day. The share price includes the cumulative net earnings or losses for each fund through the date the share price is calculated.

Source of contributions means traditional contributions, Roth contributions, Agency Automatic (1%) Contributions, or matching contributions. All amounts in a participant's account are attributed to one of these four sources. Catch-up contributions, transfers, rollovers, and loan payments are included in the traditional contribution source or the Roth contribution source.

Special or incentive pay means pay payable as special or incentive pay under 37 U.S.C. chapter 5.

Spouse means the person to whom a TSP participant is married on the date he or she signs a form on which the TSP requests spousal information. Where a participant is seeking to reclaim an account that has been forfeited pursuant to 5 CFR 1650.16, spouse means the person to whom the participant was married on the withdrawal deadline. For purposes of 5 CFR 1651.5 and 5 CFR 1651.19, spouse means the person to whom the participant was married on the date of the participant's death. A TSP participant is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. The laws of the jurisdiction in

which the marriage was initially established will be used to determine whether a TSP participant is married.

Tax-deferred balance means the sum of:

(1) All contributions, rollovers, and transfers in a participant's traditional balance that would otherwise be includible in gross income if paid directly to the participant and earnings on those amounts; and

(2) Earnings on any tax-exempt contributions in the traditional balance. The tax-deferred balance does not include tax-exempt contributions.

Tax-deferred contributions means employee contributions made to a participant's traditional balance that would otherwise be includible in gross income if paid directly to the participant.

Tax-exempt balance means the sum of tax-exempt contributions within a participant's traditional balance. It does not include earnings on such contributions. Only a traditional balance in a uniformed services participant account or a uniformed services beneficiary participant account may contain a tax-exempt balance.

Tax-exempt contributions means employee contributions made to the participant's traditional balance from pay which is exempt from taxation by 26 U.S.C. 112. The Federal income tax exclusion at 26 U.S.C. 112 is applicable to compensation for active service during a month in which a uniformed service member serves in a combat zone. The term "tax-exempt contributions" does not include contributions made to the participant's Roth balance from pay which is exempt from taxation by 26 U.S.C. 112.

Thrift Savings Fund or *Fund* means the Fund described in 5 U.S.C. 8437.

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.

ThriftLine means the automated voice response system by which TSP participants may, among other things, access their accounts by telephone. The ThriftLine can be reached at (877) 968–3778.

Traditional balance means the sum of:

(1) Tax-deferred contributions and associated earnings;

(2) Tax-deferred amounts rolled over or transferred into the TSP and associated earnings;

(3) Tax-exempt contributions and associated earnings;

(4) Matching contributions and associated earnings;

(5) Agency Automatic (1%) Contributions and associated earnings.

Traditional contributions means tax-deferred employee contributions and tax-exempt employee contributions made to the participant's traditional balance.

Traditional IRA means an individual retirement account described in I.R.C. section 408(a) (26 U.S.C. 408(a)) and an individual retirement annuity described in I.R.C. section 408(b) (26 U.S.C. 408(b)) (other than an endowment contract).

Trustee-to-trustee transfer or transfer means the payment of an eligible rollover distribution (as defined in section 402(c)(4) of the Internal Revenue Code) from an eligible employer plan or IRA directly to another eligible employer plan or IRA at the participant's request.

TSP Fund means an investment fund established pursuant to 5 U.S.C. 8438 and an investment allocation fund established pursuant to 5 CFR Part 1601, subpart E.

TSP record keeper means the entities the Board engages to perform record keeping services for the Thrift Savings Plan.

TSP Web site means the Internet location maintained by the Board, which contains information about the TSP and by which TSP participants may, among other things, access their accounts by computer. The TSP Web site address is www.tsp.gov.

Uniformed service member means a member of the uniformed services on active duty or a member of the Ready Reserve in any pay status.

Uniformed services means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

Uniformed services account means a TSP account to which contributions

have been made by or on behalf of a member of the uniformed services.

Uniformed services beneficiary participant account means a beneficiary participant account that is established with a death benefit payment from a TSP account to which contributions were made by or on behalf of a member of the uniformed services.

Vested account balance means that portion of an individual's account which is not subject to forfeiture under 5 U.S.C. 8432(g).

[68 FR 35519, June 13, 2003, as amended at 70 FR 32218, June 1, 2005; 71 FR 50320, Aug. 25, 2006; 75 FR 78880, Dec. 17, 2010; 77 FR 26429, May 4, 2012; 78 FR 57784, Sept. 20, 2013]

EDITORIAL NOTE: At 77 FR 26429, May 4, 2012, §1690.1 was amended by removing the definitions of "regular contributions" and "combat zone compensation"; however, the amendatory instruction could not be incorporated because the definitions were not found in the section.

Subpart B—Miscellaneous

§ 1690.11 Plan year.

The Thrift Savings Plan's plan year is established on a calendar-year basis for all purposes, except where another applicable provision of law requires that a fiscal year or other basis be used. As used in this section, the term "calendar-year basis" means a twelve-month period beginning on January 1 and ending on December 31 of the same year.

§ 1690.12 Power of attorney.

(a) A participant or beneficiary can appoint an agent to conduct business with the TSP on his or her behalf by using a power of attorney (POA). The agent is called an attorney-in-fact. The TSP must approve a POA before the agent can conduct business with the TSP; however, the TSP will accept a document that was signed by the agent before the TSP approved the POA. The TSP will approve a POA if it meets the following conditions:

(1) The POA must give the agent either general or specific powers, as explained in paragraphs (b) and (c) of this section;

(2) A notary public or other official authorized by law to administer oaths or affirmations must authenticate, at-

test, acknowledge, or certify the participant's or beneficiary's signature on the POA; and

(3) The POA must be submitted to the TSP recordkeeper for approval.

(b) *General power of attorney.* A general POA gives an agent unlimited authority to conduct business with the TSP, including the authority to sign any TSP-related document. Additional information regarding general powers of attorney can be accessed at <http://www.tsp.gov>.

(c) *Specific power of attorney.* A specific power of attorney gives an agent the authority to conduct specific TSP transactions. A specific POA must expressly describe the authority it grants. Additional information regarding special powers of attorney, as well as a sample form, can be accessed at <http://www.tsp.gov>.

[69 FR 29852, May 26, 2004, as amended at 72 FR 53414, Sept. 19, 2007]

§ 1690.13 Guardianship and conservatorship orders.

(a) A court order can authorize an agent to conduct business with the TSP on behalf of an incapacitated participant or beneficiary. The agent is called a guardian or conservator and the incapacitated person is called a ward. The TSP must approve a court order before an agent can conduct business with the TSP; however, the TSP will accept a document that was signed by the agent before the TSP approved the court order. The TSP will approve a court order appointing an agent if the following conditions are met:

(1) A court of competent jurisdiction (as defined at 5 CFR 1690.1) must have issued the court order;

(2) The court order must give the agent either general or specific powers, as explained in paragraphs (b) and (c) of this section;

(3) The agent must satisfy the TSP that he or she meets any precondition specified in the court order, such as a bonding requirement;

(4) The court order must be submitted to the TSP record keeper for approval.

(b) *General grant of authority.* A general grant of authority gives a guardian or conservator unlimited authority