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 Parts 1600 and 1605

Simplification of Catch-Up Contribution Process

AGENCY: Federal Retirement Thrift Investment Board

ACTION: Proposed rule.

SUMMARY: The FRTIB proposes to reduce paperwork burdens on participants who are eligible to make catch-up contributions, by removing the regulation that requires them to submit two different contribution election forms.

DATES: Comments must be received on or before February 24, 2020.

ADDRESSES: You may submit comments using one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of General Counsel, Attn: Megan G. Grumbine, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.
- *Hand Delivery/Courier:* The address for sending comments by hand delivery or courier is the same as that for submitting comments by mail.
- *Facsimile:* Comments may be submitted by facsimile at (202) 942–1676.

The most helpful comments explain the reason for any recommended change and include data, information, and the authority that supports the recommended change.

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at 202–942–1645.

SUPPLEMENTARY INFORMATION: The FRTIB administers the Thrift Savings Plan (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 are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. 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)).

Background

A catch-up contribution is a contribution that exceeds a statutory limit on the amount of contributions a participant can normally make to the TSP in each calendar year. Congress's reason for permitting these extra contributions was to allow participants to ''catch up'' for years when they were not employed or were otherwise unable to contribute toward their retirement. *See* Federal Thrift Savings Plan Catch-Up Contributions Act, Public Law 107–304, H.R. REP. 107–686, 107 Cong. 2d Sess. (2002).

Normally, a TSP participant's contributions cannot exceed the statutory limits set forth in Internal Revenue Code (IRC) section 402(g) (limiting the amount of traditional and Roth contributions to $19,500 for calendar year 2020) and IRC section 415(c) (limiting the total amount of traditional, Roth, tax-exempt, matching, and automatic 1% contributions to the lesser of 100% of the participant's compensation or $57,000 for calendar year 2020). Participants who are age 50 or older are allowed to make catch-up contributions beyond these statutory limits—up to the dollar amount in IRC section 414(v), which is $6,500 for calendar year 2020.

Currently, participants who wish to make catch-up contributions are required to submit an election form called ''TSP–1–C/TSP–U–1–C, *Catch-up Contribution Election*'' (or electronic equivalent) to their employing agency. The catch-up contribution election form is separate, and in addition to, any other contribution election that a participant may already have on file. Upon receipt of a catch-up contribution election form, the participant's employing agency begins submitting catch-up contributions to the TSP on the participant's behalf, using special payroll records designed specifically for catch-up contributions. The payroll records that employing agencies use for submitting catch-up contributions are separate, and in addition to, the payroll records that employing agencies use for submitting other types of contributions.

Proposed Change

The FRTIB proposes to simplify the catch-up contribution process, by no longer requiring participants to submit separate catch-up contribution election forms in addition to their other contribution election forms. Instead, the TSP will simply continue to accept contributions based on the participant's contribution election that is already on file, until his/her contributions reach the combined limits on catch-up contributions and other types of contributions. Employing agency payroll offices will no longer submit catch-up contributions to the TSP on special payroll records designed specifically for catch-up contributions. Instead, payroll offices will submit catch-up contributions using the same payroll records that they use to submit other types of contributions.

The TSP recordkeeping system will automatically determine, based on the participant's date of birth, whether the participant is eligible to make catch-up contributions. When an employing agency payroll office submits contributions in excess of the 402(g) limit or the 415(c) limit on behalf of a catch-up eligible participant, the TSP recordkeeping system will automatically treat the excess contributions as catch-up contributions, without requiring any additional paperwork from the participant or any special payroll records from the payroll office.

Proposed Effective Date

The proposed effective date for this change is January 1, 2021.

Section-by-Section Analysis

Section 1600.23 Catch-Up Contributions

The FRTIB proposes to amend 5 CFR § 1600.23 by removing paragraph (b), which requires the use of a separate election form for catch-up contribution elections.

The FRTIB also proposes to remove 5 CFR § 1600.23 paragraph (h), which says that catch-up contributions cannot be matched. The FRTIB codified 5 CFR § 1600.23 paragraph (h) through an interim rule that was published on June 13, 2003. 68 FR 35491. In the preamble to the interim rule, the FRTIB cited to FERSA section 8432(c)(2) as the rationale for why catch-up contributions cannot be matched. FERSA section 8432(c)(2) says nothing about catch-up contributions—it simply says that matching contributions cannot exceed a dollar-for-dollar match on the first 3% of basic pay that a participant contributes plus 50 cents on the dollar match for the next 2% of basic pay that a participant contributes. Removing the restriction on matching catch-up contributions will not increase an employing agency's potential outlay for matching contributions as the 5% limit described in the preceding sentence still applies. FERSA section 8432(c)(2) can justify a prohibition on matching catch-up contributions only if we assume that a participant will necessarily reach the FERSA section 8432(c)(2) limit on matching contributions before, or at the same time as, he/she reaches the IRC section 402(g) or 415(c) limit on contributions. To whatever extent this assumption was accurate in 2003, it is no longer accurate today. Today, it is not uncommon for a participant to reach one of the IRC's limits on contributions before he/she reaches FERSA's limit on matching contributions.

Section 1605.13 Back Pay Awards and Other Retroactive Pay Adjustments

The FRTIB proposes to amend § 1605.13 by making a technical conforming addition to paragraph (c)(2). This paragraph currently says that any corrective contributions attributable to prior years must not exceed the 402(g) limit or the 415(c) limit applicable to those years. The FRTIB proposes to add language making it clear that such contributions also cannot exceed the 414(v) catch-up contribution limit applicable to prior years.

Regulatory Flexibility Act

I certify that this 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 Thrift Savings Plan, and their beneficiaries. The TSP is a Federal defined contribution retirement savings plan created by FERSA and is administered by the Agency.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under 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, 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 § 1532 is not required.

List of Subjects

5 CFR Part 1600

Taxes, Claims, Government employees, Pensions, Retirement.

5 CFR Part 1605

Claims, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB proposes to amend 5 CFR chapter VI as follows:

PART 1600—EMPLOYEE CONTRIBUTION ELECTIONS, CONTRIBUTION ALLOCATIONS, AND AUTOMATIC ENROLLMENT PROGRAM

■ 1. The authority citation for part 1600 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b), 8432(c), 8432(j), 8432d, 8474(b)(5) and (c)(1), and 8440e.

■ 2. Amend § 1600.23 by removing and reserving paragraphs (b) and (h).

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 § 1605.13 to read as follows:

§ 1605.13 Back pay awards and other retroactive pay adjustments.

* * * * *

(c) * * *

(1) * * *

(2) Must not cause the participant to exceed the annual contribution limit(s) contained in sections 402(g), 415(c), or 414(v) of the I.R.C. (26 U.S.C. 402(g), 415(c), 414(v)) for the year(s) with respect to which the contributions are being made, taking into consideration the TSP contributions already made in (or with respect to) that year; and

* * * * *

[FR Doc. 2020–00610 Filed 1–22–20; 8:45 am]

BILLING CODE 6760–01–P

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2427

[FLRA Docket No. 0–PS–46]

Notice of Opportunity To Comment on a Request for a General Statement of Policy or Guidance on Agency-Head Review of Agreements That Continue in Force Until New Agreements Are Reached

AGENCY: Federal Labor Relations Authority.

ACTION: Proposed issuance of a general statement of policy or guidance.

SUMMARY: The Federal Labor Relations Authority (Authority) solicits written comments on a request from the U.S. Department of Agriculture (USDA) for a general statement of policy or guidance (general statement) concerning expiring collective-bargaining agreements that state that they will remain in force until the parties reach new agreements. USDA asks for a general statement holding that, if an expiring agreement continues in force during renegotiations, then an agency head may review the legality of the expiring agreement as early as the agency head could review an expiring agreement that was renewed automatically for a fixed term. Comments are solicited on whether the Authority should issue a general statement, and, if so, what the Authority's policy or guidance should be.

DATES: To be considered, comments must be received on or before February 24, 2020.

ADDRESSES: You may send comments, which must include the caption ''USDA (Petitioner), Case No. 0–PS–46,'' by one of the following methods:

- *Email: FedRegComments@flra.gov.* Include ''USDA (Petitioner), Case No. 0–PS–46'' in the subject line of the message.
- *Mail or Hand Delivery:* Emily Sloop, Chief, Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 200, 1400 K Street NW, Washington, DC 20424–0001.

Instructions: Do not mail or hand deliver written comments if they have been submitted via email. Interested persons who mail or hand deliver written comments must submit an original and 4 copies of each written comment, with any enclosures, on 8½ x 11 inch paper.

FOR FURTHER INFORMATION CONTACT: Emily Sloop, Chief, Case Intake and Publication, Federal Labor Relations Authority, (202) 218–7740.