



Billing Code 6325-38-P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831, 839, 841, 842, and 847

RIN 3206-AN22

Federal Employees' Retirement System; Government Costs

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management amends this rule to clarify the manner OPM uses for determining a supplemental liability under the Federal Employees' Retirement System (FERS), and to clarify the process by which the U.S. Postal Service (USPS) and the U.S. Department of the Treasury (Treasury) may request reconsideration of OPM's valuation of the supplemental liability. The rule also clarifies the employee categories OPM uses to compute the FERS normal cost percentages. The rule also amends the definitions of actuary, present value factor, and actuarial present value to ensure these definitions are uniform and appropriate.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Roxann Johnson, (202) 606-0299 or combox@opm.gov.

SUPPLEMENTARY INFORMATION: OPM's determination of the FERS normal cost percentage necessary to fund the Civil Service Retirement and Disability Fund (CSRDF) is subject to appeal by agencies with at least 1,000 employees in the general category of

employees or 500 employees in any of the special categories of employees. The Secretary of the Treasury or the Postmaster General may request the Board of Actuaries of the Civil Service Retirement System (the Board) to reconsider the amount determined to be payable with respect to any supplemental liability in accordance with 5 U.S.C. 8423(c) and 5 CFR 841.409. The regulations at 5 CFR 841.401 through 5 CFR 841.411 establish the time limits and requirements for an agency appeal of OPM's determination of a normal cost percentage. OPM has added regulations under 5 CFR part 841 to clarify the process by which the Secretary of the Treasury and the Postmaster General may file a request for the Board to reconsider an amount determined to be payable to the CSRDF with respect to a supplemental liability.

OPM's final rule amends its definition of "actuary" provided under 5 CFR 841.402. The prior definition was limited to "an associate or fellow in the Society of Actuaries and one who is enrolled under section 3042 of Pub. L. 93-406, the Employee Retirement Income Security Act of 1974" (ERISA). Because this definition no longer reflected professional standards generally required of an actuary for this subpart, and was overly narrow because it worked to exclude knowledgeable and experienced actuaries who may not be enrolled under ERISA but who are well qualified to issue statements of opinion with regard to the CSRDF, OPM has amended the definition of "actuary" to include those who meet the qualification standards to issue a statement of actuarial opinion in regard to defined benefit retirement plans in the United States.

OPM's final rule amends its regulations under 5 CFR 841.403 to make clear that it determines separate normal cost percentages for employees covered under Federal Employees

Retirement System (FERS), FERS Revised Annuity Employees (FERS-RAE), and FERS Further Revised Annuity Employees (FERS-FRAE) in compliance with section 5001 of the “Middle Class Tax Relief and Job Creation Act of 2012,” Pub. Law 112-96, 126 Stat. 199 (Feb. 22, 2012), and section 401 of the “Bipartisan Budget Act of 2013,” Pub. Law 113-67, 127 Stat. 1165 (Dec. 26, 2013). This legislation defined FERS-RAE and FERS-FRAE employees for whom increased retirement deductions apply, which results in increased outlays from the CSRDF in refund and lump-sum payments of employee contributions. For that reason, the normal cost percentages for FERS-RAE and FERS-FRAE employees are expected to exceed the normal cost percentages for other FERS employees. The legislation also reduced the benefit accrual rates for Members and Congressional employees (other than Capitol Police) subject to FERS-RAE and FERS-FRAE, resulting in lower associated normal cost percentages. To ensure regulations reflect current statutory language, OPM has amended 5 CFR 841.403 to clearly establish separate normal cost percentages for FERS, FERS-RAE and FERS-FRAE employees within each employee category listed under 5 CFR 841.403.

OPM’s final rule amends 5 CFR 841.403 to make clear that it will include members of the Capitol Police as “Congressional Employees” for purposes of deriving separate normal cost percentages for this employee group. OPM includes members of the Capitol Police with Congressional employees when deriving the normal cost percentages for this employee group because, in part, 5 U.S.C. 2107(4) defines “a member or employee of the Capitol Police” as “a Congressional employee.” The Middle Class Tax Relief and Job Creation Act of 2014 eliminated for FERS-RAE and FERS-FRAE employees the higher annuity accrual rates for Congressional employees provided under 5 U.S.C. 8415(c) (see 5 U.S.C. 8415(d)) but did not

eliminate the higher annuity accrual rates under 5 U.S.C. 8415(e) for members of the Capitol Police subject to FERS-RAE and FERS-FRAE. The annuity benefits of members of the Capitol Police are more closely comparable to another of the special employee groups—law enforcement officers, whose annuities are computed under 5 U.S.C. 8415(e)—for the purpose of determining their FERS normal cost percentage. However, because a member of the Capitol Police is not within the FERS definition of “law enforcement officer” under 5 U.S.C. 8401(17), members of the Capitol Police are not included in the special category of “law enforcement officers” under 5 U.S.C. 8423(a)(1)(B) and, therefore, are not subject to the normal cost percentage applicable to that group. The only special category listed in 5 U.S.C. 8423(a)(1)(B) that does apply to members of the Capitol Police is “Congressional employees.” Thus, despite the fact that the other Congressional employees subject to FERS-RAE and FERS-FRAE do not receive enhanced annuity accrual rates, OPM must include Capitol Police in the Congressional employee normal cost percentage calculation under 5 U.S.C. 8423(a)(1)(B). Therefore, OPM’s final rule amends 5 CFR 841.403(b) to reflect all Congressional employees including members of the Capitol Police in determining the FERS, FERS-RAE and FERS-FRAE normal cost percentages for the “Congressional Employees” category.

OPM’s final rule amends 5 CFR 841.403 to include U.S. Postal Service employees as a separate category for which OPM will derive normal cost percentages. OPM has determined a Government-wide normal cost percentage for each category of employee, and U.S. Postal Service employees have been included in the category of either “all other employees” or “law enforcement officer” under 5 CFR 841.403(c) and (g). Because of the separate U.S. Postal

Service funding provisions established under 5 U.S.C. 8423(b), and as a result of recommendations from the Board, OPM's final rule amends its regulations to provide for the use of U.S. Postal Service-specific assumptions regarding demographic factors in the calculation of the U.S. Postal Service supplemental liability and in the determination of the normal cost percentage for U.S. Postal Service employees who do not fall under the category of "law enforcement officer." OPM's final rule amends regulations at 5 CFR 841.414, which will provide specific guidance on the calculation of the supplemental liability; and OPM's final rule adds employees of the U.S. Postal Service, who are not "law enforcement officers" under 5 CFR 841.403(c), as a separate category for which OPM will derive normal cost percentages under 5 CFR 841.403. OPM's final rule removes references to the term "Government-wide normal cost percentage" from 5 CFR part 841 in order to conform with the normal cost percentages established for various categories of employees as provided under this part, and to clarify that an agency may appeal a published normal cost percentage even if the normal cost percentage applies to a category of employee that exists predominately or exclusively within a single agency.

OPM's final rule also adds 5 CFR 841.415 through 841.417 to the regulations. These sections establish the procedures and requirements for filing a request for reconsideration of a supplemental liability determination filed by the Secretary of the Treasury or the Postmaster General. Under 5 CFR 841.417, and consistent with recommendations from the Board, OPM's final rule requires that the actuarial analysis submitted with the request for reconsideration must demonstrate a difference in the supplemental liability of at least 2 percent of the present value of future benefits calculated in OPM's computation of the

supplemental liability.

Additionally, OPM's final rule refines the definitions of *present value factor* and *actuarial present value* under 5 CFR parts 831, 839, 842, and 847 to ensure that these definitions are uniform and appropriate. OPM's final rule clarifies, under 5 CFR 831.303, 831.603, 831.2202, 839.102, 842.602, 842.702, and 847.103, that the present value factors are computed by using a composite of sex-distinct factors based upon mortality assumptions for annuitant populations. The factors reflect an increase in benefit payments at an assumed rate of cost-of living adjustment, where appropriate. OPM removed 5 CFR 847.602, which provided a separate description of present value factors for purposes of subpart F of part 847 in order to include a definition of "present value factor" for all of part 847, and OPM added 5 CFR 842.616 to describe when the present value factors will be published. OPM's final rule clarifies under 5 CFR 842.602 and 842.702 that separate present value factors apply to FERS annuities that receive cost-of-living adjustments before the retiree attains age 62 versus annuities that do not receive cost-of-living adjustments before age 62.

Comments

OPM received comments on its proposed rule from the U.S. Postal Service Office of Inspector General (OIG) and the U.S. Postal Service General Counsel's Office (OGC). The U.S. Postal Service OIG indicated that it "support[ed] the Proposed Rule as far as it goes," and the U.S. Postal Service OGC indicated that OPM's proposed changes were a "welcomed step," but both organizations recommended that the rule require not only the use of U.S. Postal Service-specific demographic factors but also the use of U.S. Postal Service-specific economic factors related to general salary growth assumptions in determining the normal

costs and the supplemental liability.

OPM has determined that this change is unnecessary. Currently, the regulations under 5 CFR 841.405 provide that the normal cost percentages will be based on the economic assumptions determined by the Board, and OPM's final rule amends 5 CFR 841.414 to provide that each supplemental liability will be computed based on the economic assumptions determined by the Board for the most recent valuation of FERS. Therefore, nothing in the regulations would prevent the Board from using general salary growth and wage assumptions specific to U.S. Postal Service employees when, in the Board's judgment, doing so would be appropriate.

OPM disagrees with the U.S. Postal Service OGC's assertion that 5 U.S.C. 8401(27)(A), 8423(b)(1), and 8348(h)(1)(A) require OPM to establish regulations that direct the Board to select general salary growth economic assumptions specific to the U.S. Postal Service for use in determining the normal costs and supplemental liabilities. The provisions under 5 U.S.C. 8401(23), 8401(27)(B)(iv), and 8348(h)(1)(A) require OPM to determine the normal costs and supplemental liabilities by applying "generally accepted actuarial principles," and 5 U.S.C. 8347(f) and 8423(a)(5) require the Board to "furnish its advice and opinion on matters referred to it by the Office" and to make recommendations that "in the Board's judgment are necessary to protect the public interest and maintain the System on a sound financial basis." The selection of economic assumptions used to determine the normal costs or the supplemental liability is inherently actuarial in nature. OPM finds that requiring the use of general salary growth economic assumptions specific to the U.S. Postal Service for use in determining the normal costs and supplemental liabilities would unnecessarily limit the

Board's discretion in making these determinations. As a result, OPM declines to adopt the U.S. Postal Service OGC's recommendation to require the Board to select U.S. Postal Service-specific economic assumptions for use in determining the normal costs and the supplemental liability. To the extent the U.S. Postal Service would like to submit for the Board's consideration any information regarding the actuarial merits of selecting U.S. Postal Service-specific economic assumptions for use in determining the normal cost and the supplement liability, it may do so in accordance with the requirements of Board meeting notices.

The U.S. Postal Service OGC also requested that OPM make clear in its final rule that, in instances where OPM has computed a separate normal cost percentage, an agency's right to appeal and submit the evidence necessary to support the appeal should be related to OPM's determination of that normal cost percentage rather than any Government-wide normal cost percentage. OPM agrees, and has adopted the Postal Service OGC's recommendation by amending 5 CFR 841.406, 841.409, 841.410, 841.411, and 841.412, to make clear the requirements for appealing a normal cost percentage apply for each category where OPM computes a normal cost percentage as specified under 5 CFR 841.403.

Finally, the U.S. Postal Service OGC requested that OPM not impose the 2 percent threshold requirement necessary for the Board to sustain a request for reconsideration of its supplemental liability determinations. The amended regulations under 5 CFR 841.147 provide that the Board cannot sustain a request for reconsideration unless the difference in the supplemental liability amount is at least 2 percent of the present value of future benefits calculated in OPM's computation of the supplemental liability. OPM included this threshold

requirement as a result of a recommendation from the Board advising OPM that any threshold be set as a difference in present value of future benefits. OPM's actuaries tested the effect of what might be considered substantive changes in the demographic assumptions and produced results within a range of 0 percent to a decrease of 5.9 percent. Therefore, OPM has determined that the 2 percent threshold provided is a reasonable basis for sustaining a request for reconsideration, and therefore, OPM declines to adopt the U.S. Postal Service OGC's recommendation to eliminate this threshold.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order (E.O.) 12866, as amended by E.O. 13258 and E.O. 13422.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

List of Subjects

5 CFR Part 831

Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 839

Administrative practice and procedure, Claims, Employment taxes, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement, Social security.

5 CFR Part 841

Administrative practice and procedure, Air traffic controllers, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Law enforcement officers, Pensions, Retirement.

5 CFR Part 847

Administrative practice and procedure, Disability benefits, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,
Acting Director.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR parts 831, 839, 841, 842, and 847 as set forth below:

PART 831—RETIREMENT

1. The authority citation for part 831 continues to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2), and Sec. 1313(b)(5) of Pub. L. 107-296, 116 Stat. 2135; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251; Sec. 831.201(g) also issued under Sec. 7(b) and (e) of Pub. L. 105-274, 112 Stat. 2419; Sec. 831.201(i) also issued under Secs. 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; Sec. 831.204 also issued under Sec. 102(e) of Pub. L. 104-8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104-134, 110 Stat. 1321; Sec. 831.205 also issued under Sec. 2207 of Pub. L. 106-265, 114 Stat. 784; Sec. 831.206 also issued under Sec. 1622(b) of Pub. L. 104-106, 110 Stat. 515; Sec. 831.301 also issued under Sec. 2203 of Pub. L. 106-265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and Sec. 2203 of Pub. L. 106-235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337, and Sec. 1(3), E.O. 11228, 3 CFR 1965-1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under Sec. 11004(c)(2) of Pub. L. 103-66, 107 Stat. 412; Sec. 831.682 also issued under Sec. 201(d) of Pub. L. 99-251, 100 Stat. 23; Sec. 831.912 also issued under Sec. 636 of Appendix C to Pub. L. 106-554, 114 Stat. 2763A-164; Subpart P also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110-

161, 121 Stat. 2042; Subpart V also issued under 5 U.S.C. 8343a and Sec. 6001 of Pub. L. 100-203, 101 Stat. 1330-275; Sec. 831.2203 also issued under Sec. 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388-328.

Subpart A—Administration and General Provisions

2. Add § 831.117 to subpart A to read as follows:

§ 831.117 Computation of the supplemental liability.

(a) OPM will compute each supplemental liability of the Fund using demographic factors specific to the populations for which the supplemental liability applies.

(b) The supplemental liability will be computed based on the economic assumptions used by the Board of Actuaries of the Civil Service Retirement System for the most recent valuation of the System.

(c) Each supplemental liability shall be rounded to the nearest one hundred million dollars.

Subpart C—Credit for Service

3. Amend § 831.303 by revising paragraphs (c)(3) and (d)(3) to read as follows:

§ 831.303 Civilian service.

* * * * *

(c) * * *

(3) For the purpose of paragraph (b)(2) of this section, the term “present value factor” has the same meaning as defined in § 831.603 and “time of retirement” has the same meaning as defined in § 831.2202.

(d) * * *

(3) For the purpose of paragraph (d)(2) of this section, the term “present value factor” has the same meaning as defined in § 831.603 and “time of retirement” has the same meaning as defined in § 831.2202.

Subpart F—Survivor Annuities

4. Amend § 831.603 by revising the definition of “present value factor” to read as follows:

§ 831.603 Definitions.

* * * * *

Present value factor means the amount of money (earning interest at an assumed rate) required at the time of annuity commencement to fund an annuity that starts at the rate of \$1 a month and is payable in monthly installments for the annuitant’s lifetime based on mortality rates for annuitants paid from the Civil Service Retirement and Disability Fund; and increases each year at an assumed rate of cost of living adjustment. Assumed rates of interest, mortality, and cost-of-living adjustments used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of the System based on dynamic assumptions. The present value factors are unisex factors obtained as a composite of sex-distinct present value factors.

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Subpart V—Alternative Forms of Annuities

5. Amend § 831.2202 by revising the definition of “present value factor” to read as follows:

§ 831.2202 Definitions.

* * * * *

Present value factor has the same meaning in this subpart as defined in § 831.603.

* * * * *

**PART 839—CORRECTION OF RETIREMENT COVERAGE ERRORS UNDER THE
FEDERAL ERRONEOUS RETIREMENT COVERAGE CORRECTIONS ACT**

6. The authority citation for part 839 continues to read as follows:

Authority: Title II, Pub. L. 106-265, 114 Stat. 770.

Subpart A—General Provisions

7. Amend § 839.102 by revising the definition of “present value factor” to read as follows:

§ 839.102 Definitions.

* * * * *

Present value factor has the same meaning in this subpart as defined in § 831.603.

* * * * *

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

8. The authority citation for part 841 continues to read as follows:

Authority: 5 U.S.C. 8461; Sec. 841.108 also issued under 5 U.S.C. 552a; Secs. 841.110 and 841.111 also issued under 5 U.S.C. 8470(a); subpart D also issued under 5 U.S.C. 8423; Sec. 841.504 also issued under 5 U.S.C. 8422; Sec. 841.507 also issued under section 505 of Pub. L. 99-335; subpart J also issued under 5 U.S.C. 8469; Sec. 841.506 also issued under 5 U.S.C. 7701(b)(2); Sec. 841.508 also issued under section 505 of Pub. L. 99-335; Sec. 841.604 also issued under Title II, Pub. L. 106-265, 114 Stat. 780.

Subpart D—Government Costs

9. Amend § 841.401 by revising paragraphs (b)(3) and (4) and adding paragraph (b)(5) to read as follows:

§ 841.401 Purpose and scope.

* * * * *

(b) * * *

(3) Agency appeals of rate determinations;

(4) Methodology for determining the amount due from each agency; and

(5) Requests for reconsideration of the supplemental liability.

10. Amend § 841.402 by revising the definition of “actuary” to read as follows:

§ 841.402 Definitions.

* * * * *

Actuary means a professional who meets the qualification standards to issue a statement of actuarial opinion in regard to defined benefit retirement plans in the United States.

* * * * *

11. Amend § 841.403 by revising the introductory text, paragraph (b), paragraph (g), and adding paragraph (h) to read as follows:

§ 841.403 Categories of employees for computation of normal cost percentages.

Separate normal cost percentages for FERS, FERS-RAE and FERS-FRAE will be determined for each of the following groups of employees:

* * * * *

(b) Congressional employees, including members of the Capitol Police;

* * * * *

(g) Other employees of the United States Postal Service;

(h) All other employees.

12. Revise § 841.406(a) to read as follows:

§ 841.406 Determination of normal cost percentages.

(a) OPM will determine the normal cost percentages for each category of employees.

These normal cost percentages will be used by all agencies that have not been granted a single agency rate under § 841.412.

* * * * *

13. Revise § 841.407(b)(1) to read as follows:

§ 841.407 Notice of normal cost percentage determinations.

* * * * *

(b) * * *

(1) The normal cost percentages and any single agency rates for each category of employees;

* * * * *

14. Revise § 841.409 to read as follows:

§ 841.409 Agency right to appeal normal cost percentage.

(a) An agency with at least 1,000 employees in the general category of employees or 500 employees in any of the special categories may appeal to the Board the normal cost percentage for that category as applied to that agency.

(b) No appeal will be considered by the Board unless the agency files, no later than 6 months after the date of publication of the notice of normal cost percentages under § 841.407, a petition for appeal that meets *all* the requirements of § 841.410.

15. Amend § 841.410 by revising the section heading and revising the introductory text of paragraph (c) and revising paragraph (c)(3) to read as follows:

§ 841.410 Contents of petition for appeal of normal cost percentage.

* * * * *

(c) The actuarial report must contain a detailed actuarial analysis of the normal cost of FERS benefits as applied to the employees of that agency in the category of employees for which the agency is appealing. The actuarial report must—

* * * * *

(3) Specifically address and consider each of the demographic factors listed in § 841.404. The appealing agency is responsible for developing data relating to the first nine demographic factors as they relate to the category of agency employees for which the appeal is being filed. OPM's demographic factors (available from OPM) will be presumed to be sufficient and reliable for factors 10 through 13 unless the appealing agency is able to demonstrate, through sufficient and reliable data relating to its employees or former employees, the use of alternative factors is appropriate. The fourteenth factor, administrative expenses, will be supplied by OPM.

* * * * *

16. Amend § 841.411 by revising the section heading and revising paragraph (a), (b), and (d)(3) and (4) to read as follows:

§ 841.411 Appeals procedure for normal cost percentage.

(a) The normal cost percentages as published under § 841.407 are presumed to apply to all agencies. Any agency appealing application of a published normal cost percentage to any category of employees in its workforce must demonstrate to the satisfaction of the Board that the normal cost percentage for that category of employees in that agency is sufficiently different from the published normal cost percentage.

(b) While an agency has an appeal pending, the published normal cost percentage continues to apply to that agency.

* * * * *

(d) * * *

(3) When all relevant factors are considered together, there is a demonstrated difference between the published normal cost percentage being appealed and the normal cost percentage for the group at issue; and

(4) The difference is at least 10 percent of the published normal cost percentage being appealed.

17. Revise § 841.412(c) to read as follows:

§ 841.412 Rates determined by appeal.

* * * * *

(c) A single agency rate may be higher or lower than the published normal cost percentage and will remain in force for not less than 3 years.

* * * * *

18. Add § 841.414 to subpart D to read as follows:

§ 841.414 Computation of the supplemental liability.

(a) OPM will compute each supplemental liability of the Civil Service Retirement and Disability Fund using demographic factors consistent with those used for the computation of the normal cost percentages under § 841.403.

(b) The supplemental liability will be computed based on the economic assumptions determined by the Board for the most recent valuation of the Federal Employees Retirement System.

(c) Each supplemental liability will be rounded to the nearest one hundred million dollars.

19. Add § 841.415 to subpart D to read as follows:

§ 841.415 Right to request reconsideration of the supplemental liability.

(a) The Secretary of the Treasury or the Postmaster General may request the Board to reconsider a determination of the amount payable with respect to any supplemental liability.

(b) No request for reconsideration will be considered by the Board unless the Secretary of the Treasury or the Postmaster General files, no later than 6 months after the date of receipt of the first notice of the amount payable with respect to the supplemental liability, a request for reconsideration that meets *all* the requirements of § 841.416.

20. Add § 841.416 to subpart D to read as follows:

§ 841.416 Contents of a request for reconsideration of the supplemental liability.

(a) To request reconsideration of the amount payable with respect to the supplemental liability, the Secretary of the Treasury or the Postmaster General must file with OPM—

(1) A signed letter of appeal summarizing the basis of the request; and

(2) An actuarial report that contains a detailed actuarial analysis of the request.

(b) The actuarial report must—

(1) Be signed by an actuary;

(2) Specifically present any data and development of assumptions related to the request for reconsideration;

(3) Use each of the demographic factors listed in § 841.404; and

(4) Use the economic assumptions under § 841.414(b). When a request is based in whole or in part on a pattern of merit salary increases, the report may include an analysis of the economic assumptions concerning salary and wage growth to take into account the combined effect of merit and general wage and salary growth.

21. Add § 841.417 to subpart D to read as follows:

§ 841.417 Reconsideration of the supplemental liability.

(a) The Board cannot sustain a request for reconsideration unless the Board finds that—

(1) The data used in the actuarial report required by § 841.416 are sufficient and reliable;

(2) The assumptions used in the actuarial report required by § 841.416 are justified; and

(3) The difference in the supplemental liability amount is at least 2 percent of the present value of future benefits calculated in OPM's computation of the supplemental liability.

(b) If the Board sustains a request for reconsideration of the supplemental liability, OPM will recompute the supplemental liability according to the economic and demographic assumptions recommended by the Board.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

22. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n);

Sec. 842.104 also issued under Secs. 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under Sec. 102(e) of Pub. L. 104-8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104-134, 110 Stat. 1321-102; Sec. 842.107 also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251, and Sec. 7(b) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.108 also issued under Sec. 7(e) of Pub. L. 105-274, 112 Stat. 2419; Sec. 842.109 also issued under Sec. 1622(b) of Public Law 104-106, 110 Stat. 515; Sec. 842.208 also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110-161, 121 Stat. 2042; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and Sec. 1313(b)(5) of Pub. L. 107-296, 116 Stat. 2135; Secs. 842.304 and 842.305 also issued under Sec. 321(f) of Pub. L. 107-228, 116 Stat. 1383, Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under Sec. 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388; Sec. 842.707 also issued under Sec. 6001 of Pub. L. 100-203, 101 Stat. 1300; Sec. 842.708 also issued under Sec. 4005 of Pub. L. 101-239, 103 Stat. 2106 and Sec. 7001 of Pub. L. 101-508, 104 Stat. 1388; Subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under Sec. 636 of Appendix C to Pub. L. 106-554 at 114 Stat. 2763A-164; Sec. 842.811 also issued under Sec. 226(c)(2) of Public Law 108-176, 117 Stat. 2529; Subpart J also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110-161, 121 Stat. 2042.

Subpart F—Survivor Elections

23. Amend § 842.602 by revising the definition of “present value factor” to read as follows:

§ 842.602 Definitions.

* * * * *

Present value factor means the amount of money (earning interest at an assumed rate) required at the time of annuity commencement to fund an annuity that starts at the rate of \$1 a month and is payable in monthly installments for the annuitant’s lifetime based on mortality rates for annuitants paid from the Civil Service Retirement and Disability Fund; and increases each year at an assumed rate of cost-of-living adjustment. Assumed rates of interest, mortality, and cost-of-living adjustments used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of the Federal Employees’ Retirement System based on dynamic assumptions. The present value factors are unisex factors obtained as a composite of sex-distinct present value factors. Separate present value factors apply for FERS annuities that receive cost-of-living adjustments before the retiree attains age 62, versus FERS annuities that do not receive cost-of-living adjustments before the retiree attains age 62.

* * * * *

24. Add § 842.616 to subpart F to read as follows:

§ 842.616 Publication of present value factors.

When OPM publishes in the FEDERAL REGISTER notice of normal cost percentages under § 841.407, it will also publish updated present value factors.

Subpart G—Alternative Forms of Annuities

25. Amend § 842.702 by revising the definition of “present value factor” to read as follows:

§ 842.702 Definitions.

* * * * *

Present value factor has the same meaning in this subpart as defined in § 842.602.

* * * * *

PART 847—ELECTIONS OF RETIREMENT COVERAGE BY CURRENT AND FORMER EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

26. The authority citation for part 847 continues to read as follows:

Authority: 5 U.S.C. 8332(b)(17) and 8411(b)(6) and sections 1131 and 1132 of Pub. L. 107-107, December 28, 2001, 115 Stat 1242; 5 U.S.C. 8347(a) and 8461(g) and section 1043(b) of Pub. L. 104-106, Div. A, Title X, Feb. 10, 1996, 110 Stat. 434. Subpart B also issued under 5 U.S.C. 8347(q) and 8461(n).

Subpart A—General Provisions

27. Amend § 847.103(b) to revise the definition of “actuarial present value” and to add the definition of “present value factor” in alphabetical order as follows:

§ 847.103 Definitions.

* * * * *

(b) * * *

Actuarial present value means the amount of monthly annuity at time of retirement multiplied by the applicable present value factor.

* * *

Present value factor has the same meaning in this part as defined in § 842.602.

* * * * *

Subpart F—Additional Employee Costs Under the Retroactive Provisions

§ 847.602 [Removed and Reserved]

28. Remove and reserve § 847.602.

Billing code 6325-38-P

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