



[BILLING CODE 6760-01-P]

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Hardship Withdrawals for Expenses Related to Natural Disasters

AGENCY: Federal Retirement Thrift Investment Board

ACTION: Proposed rule.

SUMMARY: The Federal Retirement Thrift Investment Board (“FRTIB”) proposes to allow participants to take hardship withdrawals for expenses related to natural disasters.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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

- Federal eRulemaking 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, N.E., Suite 1000, Washington, D.C. 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.

FOR FURTHER INFORMATION CONTACT: Jessica Bradford, (202) 864-8699.

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)).

FERSA regulations permit in-service withdrawals from TSP accounts based upon four different types, or conditions, of financial hardship experienced by participants: (1) negative monthly cash flow; (2) certain medical expenses of participant and his or her spouse or dependents; (3) payments for repairs or replacement of property resulting from personal casualty losses; and (4) attorney's fees and court costs associated with a participant's separation or divorce.

In the past, expenses and lost income resulting from natural disasters were not one of the four authorized hardship expenses. Instead, in order to allow participants to take hardship withdrawals based on natural disaster expenses and losses, the TSP relied on relief and guidance issued by the Internal Revenue Service (IRS), which made disaster relief announcements to allow participants in private sector 401(k) plans to take hardship withdrawals for natural disaster expenses and losses. However, the IRS recently announced that it will discontinue its practice of issuing disaster relief announcements. Rather than issuing such an announcement after a natural disaster to permit plans to authorize such hardship withdrawals, it amended its regulation to add to its safe harbor list of financial hardship expenses a new type of expense incurred as a result of certain disasters.

Specifically, on September 23, 2019, the IRS amended Treasury Regulation § 1.401(k)-1(d)(3), adding to the safe harbor financial hardship expenses, losses (including loss of income) and expenses incurred by a participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) if the participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by the FEMA

for individual assistance with respect to the disaster.

Because the TSP has relied on the IRS' disaster relief announcements to authorize hardship withdrawals for expenses and lost income relating to natural disasters, and because those announcements will no longer be made by the IRS in light of its amended regulation, the FRTIB proposes to add to its list of authorized hardship expenses, the expenses and losses (including loss of income) resulting from a natural disaster as declared by the FEMA in order to allow TSP participants to make financial hardship withdrawals for such natural disaster expenses. The FRTIB intends for this proposed regulation to mirror Treasury Regulation § 1.401(k)-1(d)(3)(ii)(B)(7) to the extent it is applicable.

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 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 1650

Taxes, 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 1650 – METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

1. The authority citation for part 1650 continues to read as follows:

AUTHORITY: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b) (5) and 8474(c) (1).

2. Amend § 1650.32 by revising paragraph (b) introductory text and adding paragraph (b) (5) to read as follows:

§1650.32 Financial hardship withdrawals.

* * * * *

(b) To be eligible for a financial hardship withdrawal, a participant must have a financial need that results from at least one of the following five conditions:

(5) The participant has incurred expenses and losses (including loss of income) on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by the FEMA for individual assistance with respect to the disaster.

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