

# 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 Part 1690

#### Miscellaneous Regulations

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing a proposed rule that explains the requirements for an acceptable power of attorney, where a participant assigns the authority to act in his or her behalf with respect to the participant's Thrift Savings Plan (TSP) account to another person.

**DATES:** Comments must be received on or before February 12, 1999.

**ADDRESSES:** Comments may be sent to Elizabeth S. Woodruff, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth S. Woodruff at (202) 942-1661.

**SUPPLEMENTARY INFORMATION:** The Board was established by Pub. L. 99-335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986 (codified principally at 5 U.S.C. 8401 through 8479), as amended by Pub. L. 99-509, the Omnibus Budget Reconciliation Act of 1986, and Pub. L. 99-558, the Federal Employees' Retirement System Technical Corrections Act of 1986, to administer the TSP for Federal employees. Regulations of the Board are contained in title 5 of the Code of Federal Regulations, chapter VI, parts 1600-1699.

Many sections under 5 CFR parts 1600-1699 require a TSP participant to sign a TSP form to effect certain transactions in his or her TSP account, including (but not limited to)

withdrawals, loans, interfund transfers, and the designation of a beneficiary in the event of death. A participant may become unable to manage his or her own account for various reasons, however, such as incapacity or absence due to extended travel. In such circumstances, an attorney-in-fact may effect transactions in the TSP on behalf of the participant by signing the TSP form(s) as an agent of the participant. The current regulations do not explain the requirements for a valid power of attorney; thus, the proposed rule is necessary to clarify the Board's policy.

The proposed rule requires that, before an attorney-in-fact may sign a TSP form on behalf of a participant, the Board must receive and approve either a general power of attorney that authorizes the attorney-in-fact to act on behalf of the principal in the areas of personal property, finance, retirement, or business transactions; or a special power of attorney that specifically grants the attorney-in-fact the authority to effect transactions in the TSP on behalf of the participant. A valid power of attorney must be authenticated, attested, acknowledged, or certified before a notary public or other authorized official. When the Board receives a power of attorney, it will review it and advise the participant or attorney-in-fact whether it is valid for effecting transactions in the TSP.

#### Regulatory Flexibility Act

I certify that this amendment will not have a significant economic impact on a substantial number of small entities. It will affect only TSP participants and beneficiaries.

#### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

#### Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Pub. L. 104-4, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the

expenditure in any one year of \$100 million or more by any State, local, and tribal governments in the aggregate, or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64-65, is not required.

#### List of Subjects in 5 CFR Part 1690

Employee benefit plans, Government employees, Pensions, Retirement.

**Roger W. Mehle,**

*Executive Director, Federal Retirement Thrift Investment Board.*

For the reasons set forth in the preamble, part 1690 of chapter VI of title 5 of the Code of Federal Regulations is amended as follows:

#### PART 1690—MISCELLANEOUS REGULATIONS

1. The authority citation for part 1690 continues to read as follows:

**Authority:** 5 U.S.C. 8474.

2. Section 1690.2 is added to read as follows:

#### § 1690.2 Power of attorney.

This section applies to all regulations in this chapter that require a signature by the participant on a Thrift Savings Plan (TSP) form, where the participant desires to effect transactions through an agent (i.e., an attorney-in-fact). Before an attorney-in-fact may sign a TSP form on behalf of a participant, the Board must have approved either a general power of attorney which authorizes the attorney-in-fact to act on behalf of the participant with respect to the principal's personal property or in Federal Government retirement, financial, or business transactions; or a special power of attorney which authorizes the attorney-in-fact to effect transactions in the TSP on behalf of the participant. For a power of attorney to be acceptable to effect transactions in the TSP, it must be authenticated, attested, acknowledged, or certified before a notary public or other official authorized by law to administer oaths or affirmations. The Board will advise the person submitting a power of attorney whether it is valid to effect transactions in the TSP.

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