

TSP MODERNIZATION ACT OF 2017

OCTOBER 10, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 3031]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 3031) to amend title 5, United States Code, to provide for flexibility in making withdrawals from a Thrift Savings Plan account, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## COMMITTEE STATEMENT AND VIEWS

## PURPOSE AND SUMMARY

H.R. 3031, the *TSP Modernization Act of 2017*, expands withdrawal options for Thrift Savings Plan (TSP) participants. The TSP is a 401(k)-equivalent retirement account for Federal employees. H.R. 3031 increases the flexibility and control Federal employees have over their accounts to bring the TSP in line with private sector rules. It allows participants to make multiple partial withdrawals from their TSP accounts after separation from Federal service and permits participants, who are current employees, to make multiple age-based partial withdrawals. H.R. 3031 also enables separated participants who previously elected to withdraw their money using periodic payments to change that election as long as they do not return any payments already made. Finally, the bill eliminates the withdrawal election deadline and the default election of an annuity purchase if a participant does not make a withdrawal election by the deadline.

## BACKGROUND AND NEED FOR LEGISLATION

The *Federal Employees' Retirement System Act of 1986* established the TSP.<sup>1</sup> The TSP is administered by the Federal Retirement Thrift Investment Board (FRTIB). For employees covered by the Federal Employees Retirement System (FERS), the TSP is the defined contribution portion of the tripartite retirement system that also includes a defined benefit pension and Social Security.

Participation in the TSP brings advantages over private sector defined contribution systems. The design of the system is simple and allows for passive investment management.<sup>2</sup> Investors may purchase shares in any of the five core investment funds, including the Government Securities Investment Fund (G Fund), the Fixed Income Index Investment Fund (F Fund), the Common Stock Index Investment Fund (C Fund), the U.S. Small Capitalization Stock Index Investment Fund (S Fund), and the International Stock Index Investment Fund (I Fund).<sup>3</sup> Investors may also purchase "lifecycle" funds that are comprised of a mix of the core investment funds, allowing the FRTIB to select an appropriate mix of shares depending on when the investor is expected to begin withdrawing funds.<sup>4</sup>

Another advantage of utilizing the TSP is its low administrative costs. In 2016, the expense ratio for the TSP was 3.8 basis points, one of the lowest in the industry.<sup>5</sup> The reason for these low costs is the simple plan structure and passive investment management that result from using low-cost index funds such as the C and S Funds, which are designed to track market indices. Economies of scale also enable the TSP to minimize costs. As of June 2017, ap-

<sup>1</sup> Federal Employees' Retirement System Act of 1986, Pub. L. 99-335.

<sup>2</sup> See e.g. the *Thrift Savings Plan's lifecycle funds*; Thrift Savings Plan, *Lifecycle Funds*, <https://www.tsp.gov/InvestmentFunds/FundOptions/index.html> (last visited Oct. 3, 2017).

<sup>3</sup> Thrift Savings Plan, *Thrift Savings Plan Investment Funds: Fund Management*, <https://www.tsp.gov/InvestmentFunds/FundsOverview/index.html> (last visited July 28, 2017).

<sup>4</sup> *Id.*

<sup>5</sup> Thrift Savings Plan, *Expense Ratio*, <https://www.tsp.gov/InvestmentFunds/FundsOverview/expenseRatio.html> (last visited Oct. 3, 2017).

proximately 90 percent of FERS employees participated in the TSP, with over \$500 billion invested.<sup>6</sup>

Although the TSP offers many advantages, the current withdrawal rules for TSP accounts can be restrictive. In-service TSP participants may make only one age-based partial or full withdrawal after they reach the age of 59½. Separated participants are also limited to only one partial withdrawal. After, only a full-withdrawal option is available to separated employees. A TSP participant is not allowed to take a partial withdrawal once separated from federal service if he or she took an in-service age-based withdrawal. Finally, if a separated employee elects to withdraw his or her full balance via periodic payments, the payments cannot be stopped unless a participant withdraws his or her entire remaining balance. The separated employee cannot elect to switch to a partial withdrawal or annuity purchase.<sup>7</sup>

The law also requires TSP participants to make a post-separation withdrawal election by April 1 of the year following the year in which a participant turns 70½ and are separated from federal service. This withdrawal election deadline is independent of the Internal Revenue Service requirement to begin annual minimum distributions by April 1 of the year following the year in which the participant is 70½ years old and separated from federal service.<sup>8</sup> The law requires that the FRTIB purchase an annuity for a TSP participant if he or she fails to make an election by the TSP withdrawal election deadline.<sup>9</sup>

In 2014 and 2015, the FRTIB examined TSP data and discovered many participants were transferring their plan balances from the TSP to other financial institutions at age 59½ and upon separation from federal employment. In 2013 alone, separated participants transferred \$9 billion out of the TSP to other financial institutions, most of which have higher expenses than the TSP, thereby “reduc[ing] a participant’s net returns and negatively impact[ing] his/her retirement readiness.”<sup>10</sup> Of these participants, 27 percent cited a desire for additional withdrawal flexibility as a motivating factor behind these transactions, and 36 percent cited the need for funds to address life events.<sup>11</sup> Among those who took age-based withdrawals, 30 percent desired additional withdrawal flexibility, and 52 percent needed the funds to address life events.<sup>12</sup> Agents for the TSP’s customer service phone line also report significant dissatisfaction with what participants consider are overly restrictive withdrawal options.<sup>13</sup>

As part of its study, the FRTIB looked at the reasons for the current restrictive withdrawal options. According to the Board, defined contribution systems were still relatively new at the time of the TSP’s creation. A decision was made to model the withdrawal op-

<sup>6</sup>Fed. Retirement Thrift Investment Bd., Thrift Savings Fund Statistics—June 2017 (2017).

<sup>7</sup>Memorandum from Greg Long, Exec. Dir., Fed. Retirement Thrift Investment Bd., to Bd. Members Kennedy, Bilyeu, Jones, McCray, and Jasien, Fed. Retirement Thrift Investment Bd., TSP Withdrawal Options 4–5 (July 7, 2015) [hereinafter “FRTIB Memo”].

<sup>8</sup>*Id.* at 5.

<sup>9</sup>5 U.S.C. § 8433(f)(2).

<sup>10</sup>FRTIB Memo *supra* note 7, at 1.

<sup>11</sup>*Id.*, at 3.

<sup>12</sup>Written leg. proposal from Fed. Retirement Thrift Investment Bd. to H. Comm. on Oversight & Gov’t Reform, *Proposal for Withdrawal Flexibility from the Thrift Savings Plan 1* (no date).

<sup>13</sup>FRTIB Memo, *supra* note 7, at 3.

tions based on the defined benefit pension administered by the U.S. Office of Personnel Management (OPM).

The TSP initially had a withdrawal scheme that was designed to mimic a participant's eligibility for the OPM defined benefit annuity. Effectively, only participants that reached the age and service requirements that qualified them for a defined benefit payout could execute a TSP withdrawal that would result in a direct payment to the participant.

All other separated participants were required to transfer their accounts to an [individual retirement account] or another qualified plan. This structure proved confusing to participants and was modified several times through legislative changes. . . . Each change brought the TSP's withdrawal options more in-line with those commonly found in ERISA [Employee Retirement Income Security Act] governed 401(k) plans.<sup>14</sup>

Despite these past changes, the FRTIB study found the TSP's current withdrawal options continue to vary from plans found in the private sector. To bridge this gap, the study recommended allowing participants to take multiple partial distributions once separated and allowing participants who take in-service, age-based withdrawals to take partial distributions once separated, both of which are options found in many private sector plans.<sup>15</sup> The FRTIB also reviewed a Vanguard 2013 study of private sector defined contribution plans that looked at the effects of allowing multiple partial withdrawals as one nears retirement and after separating from service. The study found increased withdrawal flexibilities for participants produced a 50 percent increase in plan retention of participants and assets.<sup>16</sup>

H.R. 3031 addresses these problems by providing additional withdrawal flexibility to TSP participants. The bill allows TSP participants to make multiple partial withdrawals post-separation, and it eliminates the prohibition on making a post-separation partial withdrawal if a participant has taken an in-service, age-based withdrawal. It allows separated employees to stop periodic payments of their account balance as long as they do not return any money that was already dispensed. The participants may then elect for a partial withdrawal or purchase an annuity. The bill removes the requirement that TSP participants make a withdrawal election by the withdrawal election deadline—the year following the year in which they turn 70½—and removes the requirement that the FRTIB purchase an annuity for any employee who has not made an election by the withdrawal deadline. Finally, the bill allows in-service employees to make multiple age-based withdrawals.

#### LEGISLATIVE HISTORY

On June 23, 2017, Representative Elijah Cummings (D–MD), the Ranking Minority Member of the Committee, introduced H.R. 3031, the *TSP Modernization Act of 2017*, with Representative Mark Meadows (R–NC). H.R. 3031 was referred to the Committee on

<sup>14</sup> *Id.* at 2.

<sup>15</sup> *Id.* at 3.

<sup>16</sup> Vanguard, Retirement Distribution Decisions Among DC Participants 10 (2013).

Oversight and Government Reform. The Committee considered H.R. 3031 at a business meeting on July 19, 2017, and ordered the bill reported favorably by voice vote.

Senator Rob Portman (R-OH) and Senator Thomas Carper (D-DE) introduced S. 873, the Senate companion to H.R. 3031, on April 6, 2017. The Senate Committee on Homeland Security and Governmental Affairs considered S. 873 at a business meeting on July 26, 2017 and ordered the bill reported favorably by voice vote.

#### SECTION-BY-SECTION

##### *Section 1. Short title*

The short title is the “TSP Modernization Act of 2017”.

##### *Sec. 2. Thrift Savings Plan Account Withdrawal Flexibility*

This section amends section 8433 of title 5, United States Code, and includes related stand-alone provisions and conforming changes. The amendments include removing a prohibition on Thrift Savings Plan (TSP) participants who have separated from government service making a partial post-separation withdrawal from their TSP account if they made a partial withdrawal during their in-service period. It also allows separated TSP participants to make more than one partial withdrawal.

This section would prohibit a TSP participant who has elected to withdraw money from the participant’s TSP account by purchasing an annuity, from changing that election on or after the date on which such annuity contract is purchased. A TSP participant who has separated from service may not return a payment that was made pursuant to a withdrawal election. The revised section will allow separated employees to change their withdrawal elections, even after receiving periodic payments from their TSP account, as long as they do not return any money already dispensed from their TSP accounts. Separated employees will be allowed to change from periodic payments to partial withdrawals or annuity contracts.

Section 2 also removes a withdrawal election deadline and the requirement for FRTIB to purchase an annuity for a TSP participant if a participant has not made a withdrawal election by April 1 of the year after the participant reaches the age of 70½. This gives TSP participants additional time to consider their withdrawal options, while not changing the Internal Revenue Service required minimum distribution rules.

Finally, the section removes a limitation allowing a TSP participant who is still employed by the federal government to make a withdrawal after reaching the age of 59½ only one time while still employed by the Federal Government.

#### EXPLANATION OF AMENDMENTS

There were no amendments to H.R. 3031 offered or agreed to during Committee consideration of the bill.

#### COMMITTEE CONSIDERATION

On July 19, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported by voice vote.

## ROLL CALL VOTES

There were no roll call votes during consideration of H.R. 3031.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill expands withdrawal options for TSP participants. As such, this bill does not relate to employment or access to public services and accommodations.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to provide for flexibility in making withdrawals from a Thrift Savings Plan account.

## DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

The legislation requires the Executive Director of the FRTIB to prescribe such regulations as are necessary to carry out the amendments made by the bill.

## FEDERAL ADVISORY COMMITTEE ACT

The Committee finds the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

## UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113–67) the Committee has included a letter received from the Congressional Budget Office below.

## EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

## COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 16, 2017.*

Hon. TREY GOWDY,  
*Chairman, Committee on Oversight and Government Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3031, the TSP Modernization Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dan Ready.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 3031—TSP Modernization Act of 2017*

H.R. 3031 would expand the withdrawal options for participants in the Thrift Savings Plan (TSP), the federal government's defined-contribution retirement plan. Currently, employees may only make one partial withdrawal after they turn 59½ while employed or one such withdrawal after they retire. Enacting H.R. 3031 would allow an unlimited number of such withdrawals.

The staff of the Joint Committee on Taxation estimate that enacting H.R. 3031 would affect revenues because TSP participants would be able to withdraw funds differently than under current law and those withdrawals could affect the timing of taxes paid on the amounts withdrawn; those effects, however, would be negligible. Because the bill would affect revenues, pay-as-you-go procedures apply. Enacting the bill would not affect direct spending.

CBO estimates that enacting H.R. 3031 would not increase net direct spending or significantly increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

This bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Dan Ready. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**SUBPART G—INSURANCE AND ANNUITIES**

\* \* \* \* \*

**CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM**

\* \* \* \* \*

**SUBCHAPTER III—THRIFT SAVINGS PLAN**

\* \* \* \* \*

**§ 8432b. Contributions of persons who perform military service**

- (a) This section applies to any employee who—
- (1) separates or enters leave-without-pay status in order to perform military service; and
  - (2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.
- (b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).
- (2) The maximum amount which an employee may contribute under this subsection is equal to—
    - (A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

- (B) any contributions under section 8432(a) or 8440e actually made by such employee over the period described in subparagraph (A).
- (3) Contributions under this subsection—
- (A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);
- (B) shall be made over the period of time specified by the employee under paragraph (4)(B); and
- (C) shall be in addition to any contributions then actually being made under section 8432(a).
- (4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—
- (A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and
- (B) the period of time over which the employee wishes to make contributions under this subsection.
- The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.
- (c)(1) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—
- (A) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and
- (B) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.
- (2) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—
- (A) the total contributions to which that individual would have been entitled under section 8432(c)(2), based on the amounts contributed by such individual under section 8440e (other than under subsection (d)(2) thereof) with respect to the period referred to in subsection (b)(2)(B), if those amounts had been contributed by such individual under section 8432(a); reduced by
- (B) any contributions actually made on such employee's behalf under section 8432(c)(2) (including pursuant to an agreement under section 211(d) of title 37) with respect to the period referred to in subsection (b)(2)(B).
- (d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—
- (1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by
- (2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).
- (e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection

(b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

(f)(1) The employing agency may be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings, if required, shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave without pay status to perform military service.

(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

(g) Amounts paid under subsection (c), (d), or (f) shall be paid—

(1) by the agency to which the employee is restored or in which such employee is reemployed;

(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

(3) within the time prescribed by the Executive Director.

(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

(2)(A) An employee to whom this section applies may elect, for purposes of [section 8433(d), or paragraph (1) or (2) of section 8433(h)] *subsection (d) or (f) of section 8433*, as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

(i) The Executive Director shall prescribe regulations to carry out this section.

\* \* \* \* \*

**§ 8433. Benefits and election of benefits**

(a) An employee or Member who separates from Government employment is entitled to the amount of the balance in the employee's or Member's account (except for the portion of such amount forfeited under section 8432(g) of this title, if any) as provided in this section.

(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect to withdraw from the Thrift Savings Fund the balance of the employee's or Member's account as—

- (1) an annuity;
- (2) a single payment;

(3) 2 or more substantially equal payments to be made not less frequently than annually; or

(4) any combination of payments as provided under paragraphs (1) through (3) as the Executive Director may prescribe by regulation.

(c)(1) In addition to the right provided under subsection (b) to withdraw the balance of the account, an employee or Member who separates from Government service **and who has not made a withdrawal under subsection (h)(1)(A) may make one withdrawal** *may make one or more withdrawals* of any amount **as a single payment** *in the same manner as a single payment is made* in accordance with subsection (b)(2) from the employee's or Member's account.

(2) An employee or Member may request that the amount withdrawn from the Thrift Savings Fund in accordance with subsection (b)(2) be transferred to an eligible retirement plan.

(3) The Executive Director shall make each transfer elected under paragraph (2) directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986) identified by the employee, Member, former employee, or former Member for whom the transfer is made.

(4) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (2) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.

(5) *Withdrawals under this subsection shall be subject to such other limitations or conditions as the Executive Director may prescribe by regulation.*

(d)(1) Subject to paragraph (2) and subsections (a) and (c) of section 8435 of this title, an employee or Member may change an election previously made under this subchapter, *except that in the case of an election to receive an annuity, a former employee or Member may not change an election under this section on or after the date on which an annuity contract is purchased to provide for the annuity elected by the former employee or Member.*

(2) A former employee or Member may not **change an** *return a payment that was made pursuant to an election* under this section **on or after the date on which a payment is made** in accordance with such election or, in the case of an election to receive an annuity, the date on which an annuity contract is purchased to provide for the annuity elected by the former employee or Member**].**

(e)(1) If an employee or Member (or former employee or Member) dies without having made an election under this section or after having elected an annuity under this section but before making an election under section 8434 of this title, an amount equal to the value of that individual's account (as of death) shall, subject to any decree, order, or agreement referred to in section 8435(c)(2) of this title be paid in a manner consistent with section 8424(d) of this title.

(2) Notwithstanding section 8424(d), if an employee, Member, former employee, or former Member dies and has designated as sole or partial beneficiary his or her spouse at the time of death, or, if an employee, Member, former employee, or

former Member, dies with no designated beneficiary and is survived by a spouse, the spouse may maintain the portion of the employee's or Member's account to which the spouse is entitled in accordance with the following terms:

(A) Subject to the limitations of subparagraph (B), the spouse shall have the same withdrawal options under subsection (b) as the employee or Member were the employee or Member living.

(B) The spouse may not make withdrawals under subsection (g) or (h).

(C) The spouse may not make contributions or transfers to the account.

(D) The account shall be disbursed upon the death of the surviving spouse. A beneficiary or surviving spouse of a deceased spouse who has inherited an account is ineligible to maintain the inherited spousal account.

(3) The Executive Director shall prescribe regulations to carry out this subsection.

(f) **[(1) Notwithstanding]** *Notwithstanding* subsection (b), if an employee or Member separates from Government employment, and such employee's or Member's nonforfeitable account balance is less than an amount that the Executive Director prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment, unless an election under section 8432b(h)(2) is made to treat such separation for purposes of **[this paragraph]** *this subsection* as if it had never occurred.

**[(2) Unless otherwise elected under this section, and subject to paragraph (1), benefits under this subchapter shall be paid as an annuity commencing for an employee, Member, former employee, or former Member on April 1 of the year following the latest of the year in which—**

**[(A) the employee, Member, former employee, or former Member becomes 70 1/2 years of age; or**

**[(B) the employee, Member, former employee, or former Member separates from Government employment.]**

(g)(1) At any time before separation, an employee or Member may apply to the Board for permission to borrow from the employee's or Member's account an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member. Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee's or Member's final account balance.

(2) Loans under this subsection shall be available to all employees and Members on a reasonably equivalent basis, and shall be subject to such other conditions as the Board may by regulation prescribe. The restrictions of section 8477(c)(1) of this title shall not apply to loans made under this subsection.

(3) A loan may not be made under this subsection to the extent that the loan would be treated as a taxable distribution under section 72(p) of the Internal Revenue Code of 1986.

(4) A loan may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.

(h)(1) An employee or Member may apply, before separation, to the Board for permission to withdraw an amount from the employee's or Member's account based upon—

(A) the employee or Member having attained age 59½;

or

(B) financial hardship.

[(2) A withdrawal under paragraph (1)(A) shall be available to each eligible participant one time only.]

[(3)] (2) A withdrawal under paragraph (1)(B) shall be available only for an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member.

[(4)] (3) Withdrawals under paragraph (1) shall be subject to such other *limitations or* conditions as the Executive Director may prescribe by regulation.

[(5)] (4) A withdrawal may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.

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