

§ 1655.18

forfeited the right to repay the loan in full. Repayment in full means receipt by the TSP record keeper of a payment, by personal check or guaranteed funds made payable to the Thrift Savings Plan, of all principal and interest due on the loan.

(b) If a participant returns a loan check to the TSP record keeper, it will be treated as a repayment; however, additional interest may be owed, which, if not paid, could result in a taxable distribution. The loan, even though repaid, will also be taken into account in determining the maximum amount available for future loans, in accordance with § 1655.6(b).

(c) The amount outstanding on a loan can be obtained from the TSP Web site, the ThriftLine, or a TSPSO participant service representative, or by a written request to the TSP record keeper.

§ 1655.18 Spousal rights.

(a) *Spouse of CSRS participant.* (1) Before a loan is disbursed to a CSRS participant, the TSP record keeper will send a notice to the participant's current spouse that the participant has applied for a loan.

(2) A CSRS participant may obtain an exception to the requirement described in paragraph (a)(1) of this section if the participant establishes, to the satisfaction of the Executive Director, that the spouse's whereabouts are unknown as described in paragraph (c) of this section.

(b) *Spouse of FERS or uniformed services participant.* (1) Before a loan agreement is approved for a FERS or uniformed services participant, the spouse must consent to the loan by signing the loan agreement.

(2) A FERS or uniformed services participant may obtain an exception to the requirement described in paragraph (b)(1) of this section if the participant establishes, to the satisfaction of the Executive Director, that:

(i) The spouse's whereabouts are unknown; or

(ii) Exceptional circumstances prevent the participant from obtaining the spouse's consent.

(c) *Exception to spousal requirements.* The procedures for obtaining an exception to the spousal requirements described in paragraphs (a)(1) and (b)(1) of

5 CFR Ch. VI (1-1-05 Edition)

this section are the same as the procedures described in 5 CFR part 1650, subpart G.

(d) *Certification of truthfulness.* (1) By signing the loan application and the loan agreement, electronically or on paper, the participant certifies, under penalty of perjury, that all information provided to the TSP during the loan process is true and complete, including statements concerning the participant's marital status, the spouse's address at the time the application is filed, or the current spouse's consent to the loan.

(2) If the Board receives a written allegation from the spouse that the participant may have misrepresented his or her marital status or the spouse's address (in the case of a CSRS participant), or that the signature of the spouse of a FERS participant was forged, the Board will submit the information or document in question to the spouse and request that he or she state in writing that the information is false or that the spouse's signature was forged. In the event of an alleged forgery, the Board will also request the spouse to provide at least three samples of his or her signature.

(3) If the spouse affirms the allegation, in accordance with the procedure set forth in paragraph (d)(2) of this section, and the loan has been disbursed, the Board will give the participant an opportunity to repay the unpaid loan principal and interest within 60 days. If the loan is repaid during this period, the Board will not investigate the spouse's allegation.

(4) Paragraph (d)(3) of this section will not apply if the participant has received a final divorce decree before the Thrift Savings Plan receives the funds.

(5) If the unpaid loan principal and interest are not repaid to the Plan in full within the time period provided in paragraph (d)(3) of this section, the Board will conduct an investigation into the allegation. If the participant has received a final divorce decree before the Thrift Savings Plan receives the funds, the Board will begin its investigation immediately.

(6) If, during its investigation, the Board finds evidence to suggest that the participant misrepresented his or her marital status or spouse's address

(in the case of a CSRS participant), or submitted the loan agreement with a forged signature, the Board will refer the case to the Department of Justice for criminal prosecution and, if the participant is still employed, to the Inspector General or other appropriate authority in the participant's employing agency for administrative action.

(7) Upon receipt of an allegation described in paragraph (d)(2) of this section, the participant's account will be frozen and no loan will be permitted until after:

(i) Thirty (30) days have elapsed since the participant's spouse was sent a copy of the information or document in question, and the Board has received no written affirmation of the alleged false information or forgery (together with signature samples, if required);

(ii) The loan is repaid pursuant to paragraph (d)(3) of this section;

(iii) The Executive Director concludes that the Board's investigation did not yield persuasive evidence that supports the spouse's allegation;

(iv) The Executive Director has been assured in writing by the spouse that any future request for a loan or withdrawal comports with the applicable requirement of notice or consent; or

(v) The participant is divorced.

[68 FR 35515, June 13, 2003, as amended at 68 FR 74451, Dec. 23, 2003]

§ 1655.19 Effect of court order on loan.

Upon receipt of a document that purports to be a qualifying retirement benefits court order, qualifying legal process relating to a participant's legal obligation to provide child support or to make alimony payments, or a qualifying child abuse order, the participant's TSP account will be frozen. After the account is frozen, no loan will be allowed until the account is unfrozen. The Board's procedures for processing court orders and legal processes are explained in 5 CFR part 1653.

§ 1655.20 Residential loans.

(a) A residential loan will be made only for the purchase or construction of the primary residence of the participant, or for the participant and his or her spouse, and for related purchase costs. The participant must actually bear all or part of the cost of the pur-

chase. If the participant purchases a primary residence with someone other than his or her spouse, only the portion of the purchase costs that is borne by the participant will be considered in making the loan. A residential loan will not be made for the purpose of paying off an existing mortgage or otherwise providing financing for a primary residence purchased more than 2 years before the date of the loan application.

(b) The participant's primary residence is his or her principal residence. A primary residence may include a house, a townhouse, a condominium, a share in a cooperative housing corporation, a mobile home, a boat, or a recreational vehicle; a primary residence does not include a second home or vacation home. A participant cannot have more than one primary residence.

(c) Purchase of a primary residence means acquisition of the residence through the exchange of cash or other property or through the total construction of a new residence. A residential loan will not be made for a lease-to-buy option, unless the option to buy is being exercised. Construction of an addition to or the renovation of a residence or the purchase of land only does not constitute the purchase of a primary residence.

(d) Related purchase costs are any costs that are incurred directly as a result of the purchase or construction of a residence and which can be added to the basis of the residence for Federal tax purposes. Points or loan origination fees charged for a loan, whether or not they are treated as part of the basis, are not considered a purchase cost. Real estate taxes cannot be included.

(e) The documentation required for a loan under this section is as follows:

(1) For all purchases, except for construction, a copy of a home purchase contract or a settlement sheet; or

(2) For construction, a home construction contract. If a single home construction contract is unavailable, other contracts, building permits, receipts, assessments, or other documentation that demonstrates the construction of an entire primary residence and expenses in the amount of