



Thrift Savings Plan HIGHLIGHTS

Open Season: May 15 – July 31

Where Do We Stand?

Well, there's good news and there's other news.

The really good news is that the TSP's long-awaited new record keeping system will be introduced in September. The contracting team, led by Materials, Communication & Computers, Inc. (MATCOM), of Alexandria, Virginia, is on schedule and within budget for the project. The team includes The Centech Group, Inc., Computer Sciences Corporation, Keane Federal Systems, Savantage Financial Services, and SunGard Data Systems Inc. Some of the details of the system and how you as a participant will be affected are discussed below.

The other news is that the Federal Retirement Thrift Investment Board, which administers the TSP, is involved in a legal and legislative controversy as it attempts to recover, on behalf of TSP participants, \$50 million in actual damages and \$300 million in punitive damages from American Management Systems, Inc. (AMS), of Fairfax, Virginia, the previous record keeping system contractor. A brief explanation of the main points of the controversy is presented below; detailed press releases, letters, and court filings relating to the matter are available on the TSP Web site, www.tsp.gov.

First, the good news:

In the next few months, we will begin the transition to the new record keeping system, to be completed on Monday, September 16. In general, the new system will allow for daily valuation of accounts and daily processing of transactions. The TSP will also begin to report your account balance in terms of shares as well as dollars; a greater number of withdrawal options will be available to you; and you will be able to apply for loans and withdrawals on-line on the TSP Web site. These and other advantages and processing differences of the new system are described in the back of the most recent *Summary of the Thrift Savings Plan for Federal Employees* and *Summary of the Thrift Savings Plan for the Uniformed Services*. Both Plan Summaries are available on the TSP Web site or from your agency or service representative. (They will be republished next year to integrate the new system information more thoroughly within them.)

Here's what you need to know to manage your TSP account during the transition from the old to the new system:

- **Statements.** After the close of business on Friday, August 30, we will process the last *monthly* business cycle and close out the old system. You will receive a final participant statement for your account (and a loan statement, if applicable) as of August 31. *Keep this statement.* The ending dollar balance on this statement should be the same as the beginning dollar balance on your next statement, which will cover the period from September 1 through December 31, 2002. Report any discrepancies immediately to the TSP Service Office. Starting in 2003, participant statements — with loan information included — will be issued quarterly (for the quarters ending March 31, June 30, September 30, and December 31).
- **PIN and Contribution Allocation Requests.** Because of the conversion to the new system, from August 31 through September 15 participants will not be able to request PIN changes or contribution allocations electronically (i.e., on the TSP Web site or the ThriftLine). You may, if you wish, submit paper requests for contribution allocations (using Form TSP-50 or TSP-U-50) during this time; the forms will be held for processing to accounts on September 16.
- **Interfund Transfers.** From August 16 through September 15, participants will not be able to request interfund transfers electronically. You may, if you wish, submit paper requests for interfund transfers (using Form TSP-50 or TSP-U-50) during this time; they also will be held for processing to accounts on September 16. (Interfund transfers submitted during this time would have become effective on September 30 under the old system; under the new system, they will become effective as soon as processed.)
- **Loan Applications.** If you plan to request a loan before the transition period, make sure your completed paperwork is received by the TSP by Friday, August 23, if you would like to receive your loan payment in early September. Otherwise, the processing of your loan will be suspended during the transition.

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tion period and your loan will be disbursed after September 15. Beginning on September 16, you will be able to apply for a loan on the TSP Web site. Participants who do not require spousal consent or residential loan documentation may be able to complete their loan applications on-line. In the new system, completed loan requests will be processed and disbursed daily.

- **Withdrawals.** Similarly, withdrawal requests that are received by the TSP after August 23 will be held for processing and your withdrawal will be disbursed after September 15. *New withdrawal options will be available beginning with the new system.* Requests for new withdrawal options will require you to use the new system forms (dated August 2002). Beginning on September 16, you can also apply for a withdrawal on the TSP Web site. As with loan applications, certain withdrawal requests that do not require spousal consent or other documentation may be completed on-line. In the new system, completed withdrawal requests will be processed and disbursed daily.

For possible further developments, participants who are planning any of the above transactions during the next few months should check Plan News on the TSP Web site or the ThriftLine for updated information.

Now, the other news:

As most TSP participants know, the record keeping system that MATCOM is developing for September implementation was supposed to have been completed two years ago by AMS. Most participants also know that after AMS had missed several schedule commitments and made numerous misrepresentations to the Board, the Board terminated AMS's contract for default in July 2001 and brought suit against it for compensatory and punitive damages. (The Board's complaint against AMS is available in full on the Board's Web site.) MATCOM immediately picked up the new system engagement and, because of the uselessness of AMS's work, essentially started over. (MATCOM was selected by the Board in December 2000 as a substitute contractor in the event that it would prove necessary to terminate AMS.)



The suit against AMS is complicated by the pending question whether the Board's statutory fiduciaries (i.e., the Board's Executive Director and its five presidentially appointed private-sector members) or the Department of Justice has the legal authority to initiate and control litigation on behalf of TSP participants. The Board firmly believes that Congress gave the fiduciaries this authority, but because final judicial determination of this question may be a very lengthy process, the Board is also asking for legislative confirmation of the fiduciaries' authority from Congress.

The following is a chronology of the relevant events up to the time the *Highlights* went to press on May 2:

- In July 2001, the Board announced the termination of its contract with AMS for breach of contract and fraud. At the same time, the Board, through its Executive Director and managing fiduciary Roger Mehle, and with the unanimous approval of its five members, filed suit on behalf of TSP participants against AMS in U.S. District Court for the District of Columbia. The suit, *Mehle v. American Management Systems, Inc.*, seeks a total of \$350 million in damages (all of which would accrue to TSP participants' accounts if collected).
- In September, AMS challenged the Board's standing to sue based on "lack of subject matter jurisdiction," arguing that only the Department of Justice, and not the TSP's fiduciaries, could bring suit against AMS on behalf of the TSP participants. AMS moved the district court to dismiss the complaint on this ground.
- In December, the district court held that only the Department of Justice could legally initiate a suit against AMS on behalf of TSP participants. The court therefore dismissed the Board's complaint against AMS.
- The Board, viewing the district court's decision as clearly erroneous, immediately appealed its decision to the U.S. Court of Appeals for the District of Columbia Circuit. At the time of this writing (May 2), the appeal is pending there.
- The fourteen Federal and Postal employee unions and associations of the Employee Thrift Advisory Council asked the court of appeals to permit them to file a "friend of the court" brief in support of the Board's legal position, and the court of appeals granted their request.
- In December, the Board submitted legislation to Congress that would remove any doubt that the Board's Executive Director, with the approval of the Board members, can bring suit on behalf of TSP partici-

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pants, thereby eliminating the need for appellate court proceedings that could last for years.

- In February 2002, the Department of Justice wrote to Congress strongly opposing the Board's proposed legislation, insisting that it is sound policy for the Attorney General, and not for the Board's governing fiduciaries, to have the exclusive authority to initiate and control litigation against any Board contractors, including AMS.
- On February 14, the Board's Executive Director wrote to the chairmen and ranking members of the committees and subcommittees of jurisdiction over the Thrift Savings Plan in both the House and the Senate urging them to pass the Board's proposed legislation. To date, the Board's legislation has not yet been introduced in either body.

The Department of Justice's Position

Not only has the Department of Justice opposed the Board's proposed confirming legislation, it has also argued in the courts the same position as AMS about its exclusive right to sue AMS on behalf of the TSP. At the same time, the Department of Justice has asserted to the court that it has no fiduciary duty to TSP participants, and has conceded that in representing the Thrift Savings Fund (which holds the TSP participants' assets), it would "consider interests other than those of the Fund." The Department of Justice has stated as its official view that "the interests of the United States as a whole, as articulated by the Executive, are given a paramount position" over the interests of agencies such as the Board in making decisions affecting TSP participants.

To the same point, the Department of Justice, in its letters to Congress regarding the Board's proposed legislation, wrote that "the inherently parochial nature of such agencies suggests that an outside, central authority should ultimately control litigation . . . to provide a useful and necessary dispassionate 'second-look' at insular litigation proposals." This means that the Department of Justice could decide not even to bring a suit against AMS, or to settle the suit for an inappropriately small amount, effectively exercising sole control over TSP policies and assets.

The Board's Position

The Board believes that its authorizing legislation, the Federal Employees' Retirement System Act of 1986 (FERSA), already gives the TSP fiduciaries the authority to bring suit against AMS. The Board believes that the U.S. Court of Appeals will agree, but, if necessary, the Board will take its arguments to the U.S. Supreme Court.

If the Department of Justice were to have authority over Thrift Savings Fund litigation, decisions concerning assets of the Fund would be in the hands of the political leadership of whatever Administration happened to be in office. Congress clearly had a contrary intention; the TSP's legislative history recites Congress's "[c]oncerns over the specter of political involvement in the thrift plan management," and its apprehension that the TSP's governance "could be susceptible to pressure from an Administration." To preserve the TSP's independence, Congress insulated the management of the Fund from politics by establishing the TSP's fiduciary structure, recognizing that "the Thrift Savings Fund belongs to Plan participants, not to the Government, and thus must be managed for them independent of political considerations." Unlike the Department of Justice, a TSP fiduciary has no loyalty or duty to anyone other than TSP participants. As FERSA mandates, a TSP fiduciary "shall discharge his responsibilities with respect to the Thrift Savings Fund . . . solely in the interest of the participants and beneficiaries."

Even though the Board expects the courts to uphold its right to bring suit, the appeals process may take months, if not years. Such a delay may well prejudice a jury trial of the case against AMS on its merits, and thus jeopardize the recovery of millions of dollars of Federal employees' retirement monies. Prompt action by Congress on the Board's proposed legislation, however, can make the issue irrelevant, and ensure for the future that the retirement assets of Thrift Savings Plan participants are completely divorced from political considerations and interference.

As the Executive Director wrote in his February letters to Congress, "In light of the breadth and purposefulness of the Plan's scheme of independent governance, it is inconceivable that Congress intended to deny to the Board's fiduciaries — and instead to turn over to an Administration — the authority for the ultimate protection of the property of Plan participants, that is, through suit in a court of law." 🗣️



Thrift Savings Plan Investment Information

TSP participants may invest in any or all of five TSP funds — the G, F, C, S, and I Funds. The Federal Retirement Thrift Investment Board manages the G Fund investments. The Board has contracts with Barclays Global Investors to manage the F, C, S, and I Fund investments.

The G Fund is invested in short-term nonmarketable U.S. Treasury securities that are specially issued to the TSP. The G Fund interest rate equals the average of market rates of return on U.S. Treasury marketable securities outstanding with four or more years to maturity. TSP administrative expenses reduced the 2001 G Fund return by 0.06%, or \$.60 for every \$1,000 of G Fund account balance.

The F Fund is invested in the Barclays U.S. Debt Index Fund, a commingled fund that tracks the Lehman Brothers U.S. Aggregate (LBA) bond index. This index consists primarily of high-quality fixed-income securities representing the U.S. Government, Federal agency, mortgage-backed, corporate, and foreign government sectors of the U.S. bond market. TSP administrative expenses and F Fund investment management fees reduced the 2001 F Fund return by 0.06%, or \$.60 for every \$1,000 of F Fund account balance.

The C Fund is invested in the Barclays Equity Index Fund, a commingled fund that tracks the Standard & Poor's (S&P) 500 stock index. The index includes common stocks of

500 large and medium companies that are traded in the U.S. stock markets. TSP administrative expenses and C Fund investment management fees reduced the 2001 C Fund return by 0.06%, or \$.60 for every \$1,000 of C Fund account balance.

The S Fund, established in May 2001, is invested in the Barclays Extended Market Index Fund, which tracks the Wilshire 4500 stock index. It consists of the stocks that are actively traded in the U.S. stock markets except those in the S&P 500 index. TSP administrative expenses reduced the 2001 S Fund return by 0.05%, or \$.50 for every \$1,000 of S Fund account balance.

The I Fund, established in May 2001, is invested in the Barclays EAFE Index Fund, a commingled fund that tracks the EAFE (Europe, Australasia, Far East) stock index. The EAFE index, comprising 21 countries, consists of the stocks of companies that are large relative to the size of the stock markets of their countries and industries. TSP administrative expenses reduced the 2001 I Fund return by 0.05%, or \$.50 for every \$1,000 of I Fund account balance.

For more information about the funds, see the *Summary of the Thrift Savings Plan for Federal Employees* or the *Summary of the Thrift Savings Plan for the Uniformed Services*. Monthly rates of return for the funds are available on the TSP Web site, www.tsp.gov.

Rates of Return for the G, F, C, S, and I Funds and Related Indexes*

Year	G Fund %	F Fund %	LBA Bond Index %	C Fund %	S&P Index %	S Fund** %	Wilshire 4500 Index %	I Fund** %	EAFE Index %
1992	7.2	7.2	7.4	7.7	7.6	-	11.9	-	-12.2
1993	6.1	9.5	9.8	10.1	10.1	-	14.6	-	32.7
1994	7.2	-3.0	-2.9	1.3	1.3	-	-2.7	-	7.8
1995	7.0	18.3	18.5	37.4	37.6	-	33.5	-	11.3
1996	6.8	3.7	3.6	22.8	23.0	-	17.2	-	6.1
1997	6.8	9.6	9.7	33.2	33.4	-	25.7	-	1.5
1998	5.7	8.7	8.7	28.4	28.6	-	8.6	-	20.1
1999	6.0	-0.8	-0.8	21.0	21.0	-	35.5	-	26.7
2000	6.4	11.7	11.6	-9.1	-9.1	-	-15.8	-	-14.2
2001	5.4	8.6	8.4	-11.9	-11.9	-2.2	-9.3	-15.4	-21.4
Compound annual rates of return 1992 – 2001:									
	6.5	7.2	7.2	12.9	12.9	-	10.7	-	4.4
2002									
Jan.	0.4	0.8	0.8	-1.5	-1.5	-2.0	-1.9	-5.3	-5.3
Feb.	0.4	1.0	1.0	-1.9	-1.9	-2.6	-2.8	0.7	0.7
March	0.4	-1.7	-1.7	3.7	3.8	6.8	6.8	5.8	5.4

* The returns for the TSP funds represent net earnings after deduction of accrued administrative expenses and, in the cases of the F, C, S, and I Funds, after deduction of trading costs and accrued investment management fees. The returns for the four indexes shown do not include any deduction for administrative expenses, trading costs, or investment management fees.

** The S and I Funds were implemented in May 2001 and therefore there are no returns for these funds for earlier periods. The 2001 returns shown for the S and I Funds are for May through December 2001.