

*or a former spouse annuity.* (1) The annuity reduction required by paragraph (b)(2) of this section applies to all retirees who are required to pay deposits under § 842.611 or § 842.612 and have not paid any portion of the deposit prior to October 1, 1993, or from annuity accruing before that date.

(2) Retirees described in paragraph (b)(1) of this section must have a permanent annuity reduction computed under paragraph (b)(4) of this section.

(3) A reduction under paragraph (b)(2) of this section commences on the same date as the annuity reduction under § 842.611 or § 842.612.

(4) The annuity reduction under paragraph (b)(2) of this section is equal to the lesser of—

(i) The amount of the deposit under § 842.611 or § 842.612 divided by the present value factor for the retiree's age on the commencing date of the reduction under paragraph (b)(3) of this section (plus any previous reduction(s) in the retiree's annuity required under paragraph (b)(2) or (c)(2) of this section); or

(ii) Twenty-five percent of the rate of the retiree's self-only annuity on the commencing date of the reduction (under paragraph (b)(3) of this section).

(5)(i) The reduction under paragraph (b)(2) or paragraph (c)(2) of this section terminates on the date that the retiree dies.

(ii) If payment of a retiree's annuity is suspended or terminated and later reinstated, or if a new annuity becomes payable, OPM will increase the amount of the original reduction computed under paragraph (b)(4) or paragraph (c)(4) of this section by any cost-of-living adjustments under section 8462 of title 5, United States Code, occurring between the commencing date of the original reduction and the commencing date of the reinstated or new annuity (but the adjusted reduction may not exceed 25 percent of the rate of the reinstated or new self-only annuity).

(c) *Post-retirement survivor election deposits that were partially paid before October 1, 1993.* (1) The annuity reduction required by paragraph (c)(2) of this section applies to all retirees who are required to pay deposits under § 842.611 or § 842.612 and have paid any portion (but not all) of the deposit prior to October

1, 1993, or from annuity accruing before that date.

(2) Retirees described in paragraph (c)(1) of this section must have a permanent annuity reduction computed under paragraph (c)(4) of this section.

(3) A reduction under paragraph (c)(2) of this section commences on October 1, 1993.

(4) The annuity reduction under paragraph (c)(2) of this section is equal to the lesser of—

(i) The amount of the principal balance remaining to be paid on October 1, 1993, divided by the present value factor for the retiree's age on October 1, 1993; or

(ii) Twenty-five percent of the rate of the retiree's self-only annuity on October 1, 1993.

(5)(i) The reduction under paragraph (c)(2) of this section terminates on the date that the retiree dies.

(ii) If payment of a retiree's annuity is suspended or terminated and later reinstated, or if a new annuity becomes payable, OPM will increase the amount of the original reduction computed under paragraph (b)(4) or paragraph (c)(4) of this section by any cost-of-living adjustments under section 8462 of title 5, United States Code, occurring between the commencing date of the original reduction and the commencing date of the reinstated or new annuity (but the adjusted reduction may not exceed 25 percent of the rate of the reinstated or new self-only annuity).

(d) For retirees who die before October 1, 1993, any unpaid portion of the deposit required under § 842.611 or § 842.612 will be collected from the survivor annuity (for which the election required the deposit) before OPM pays any survivor annuity.

[52 FR 2061, Jan. 16, 1987, as amended at 58 FR 52883, Oct. 13, 1993]

### Subpart G—Alternative Forms of Annuities

SOURCE: 52 FR 2067, Jan. 16, 1987, unless otherwise noted.

#### § 842.701 Purpose.

This subpart explains the benefits available to employees and Members who elect alternative forms of annuity

## § 842.702

## 5 CFR Ch. I (1–1–01 Edition)

under section 8420a of title 5, United States Code.

### § 842.702 Definitions.

In this subpart—

*Alternative form of annuity* means the benefit elected under § 842.705.

*Current spouse annuity* has the same meaning as in § 842.602.

*Date of final adjudication* means the date 30 days after the date of the first regular monthly payment as defined in § 831.603.

*Former spouse annuity* has the same meaning as in § 842.602.

*Present value factor* represents the amount of money (earning interest at an assumed rate) required at the time of retirement to fund an annuity that (a) starts out at the rate of \$1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for non-disability annuitants; and (b) increases each year at an assumed rate of inflation. Interest, mortality, and inflation rates used in computing the present value are those used by the Board of Actuaries for valuation of the System, based on dynamic assumptions. The present value factors are unisex factors obtained by averaging sex-distinct present value factors, weighted by the total dollar value of annuities typically paid to new retirees at each age.

*Time of retirement* has the same meaning as in § 842.602.

[52 FR 2067, Jan. 16, 1987, as amended at 53 FR 11635, Apr. 8, 1988]

### § 842.703 Eligibility.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, an employee or Member who retires under any provision of subchapter II of chapter 84 of title 5, United States Code, may elect an alternative form of annuity instead of any other benefits under the subchapter.

(b) An employee or Member who, at the time of retirement has a former spouse who is entitled to a portion of the employee's or Member's retirement benefits or a former spouse annuity under a court order acceptable for processing as defined by § 838.103 of this chapter or a qualifying court order as defined in § 838.1003 of this chapter may

not elect an alternative form of annuity.

(c) An employee or Member who is married at the time of retirement may not elect an alternative form of annuity unless the employee's or Member's spouse specifically consents to the election. OPM may waive spousal consent only under the conditions prescribed by § 842.607.

(d)(1)(i) An individual whose annuity commences after December 1, 1990, and before October 1, 1994, may elect an alternative form of annuity only if that individual is—

(A) An employee or Member who meets the conditions and fulfills the requirements described in § 842.707(c) (2) and (3); or

(B) An employee who is separated involuntarily other than for cause on charges of misconduct or delinquency;

(ii) An individual whose annuity commences on or after October 1, 1994, may elect an alternative form of annuity only if that individual is an employee or Member who meets the conditions and fulfills the requirements described in § 842.707(c) (2) and (3).

(2) For the purpose of paragraph (d)(1)(i)(B) of this section, the term "employee" does not include—

(i) Members of Congress;

(ii) Individuals in positions in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code;

(iii) Presidential appointees under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum basic pay for such positions is at or above the rate for Executive Schedule, level V;

(iv) Noncareer appointees in the Senior Executive Service or noncareer members of the Senior Foreign Service; and

(v) Any individual in a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.

(3) Notwithstanding paragraph (d)(1) of this section, an employee whose annuity commences after December 1, 1990, and before December 2, 1991, may elect an alternative form of annuity if that individual—