

Subpart A—Retirement Benefits Court Orders

§ 1653.1 Purpose.

This subpart contains regulations prescribing the Board's procedures for processing retirement benefits court orders.

§ 1653.2 Qualifying retirement benefits court orders.

(a) The TSP will only honor the terms of a retirement benefits court order that is qualifying under paragraph (b) of this section.

(b) A retirement benefits court order must meet each of the following requirements to be considered qualifying:

(1) The court order must be a court decree of divorce, of annulment, or of legal separation, or any court order or court-approved property settlement agreement incident to a decree of divorce, of annulment, or of legal separation. Orders may be issued at any stage of a divorce, annulment, or legal separation proceeding. Orders issued prior to a final decree, such as orders for the purpose of preserving the *status quo* pending the final resolution of the proceeding, are referred to as "preliminary" court orders, and will be considered "incident to" a final decree, notwithstanding that a final decree has not yet been, and may not be, issued. Orders issued subsequent to a final decree, such as orders for the purpose of amending such decree, are referred to as "subsequent" court orders, and will also be considered "incident to" such decree. However, any subsequent court order that requires the return of money properly paid pursuant to an earlier court order will not constitute a qualifying order.

(2) The court order must "expressly relate" to the Thrift Savings Plan account of a current TSP participant. This means that:

(i) The order must on its face specifically describe the TSP in such a way that it cannot be confused with other Federal Government retirement benefits or non-Federal retirement benefits; and

(ii) The order must be written in terms appropriate to a defined contribution plan rather than a defined

benefit plan. For example, it should generally refer to the individual participant's "account" or "account balance" rather than a "benefit formula" or the participant's "eventual benefits."

(3) If the court order awards an amount to be paid from the participant's TSP account, the award must be for:

- (i) A specific dollar amount;
- (ii) A stated percentage or stated fraction of the account;
- (iii) A portion of the account to be calculated by applying a formula that yields a mathematically possible result. Any variables in the formula must have values that are readily ascertainable from the face of the order or from Government employment records; or
- (iv) A survivor annuity as provided in 5 U.S.C. 8435(e).

(4) Court orders that make awards from the TSP may only provide for payments:

- (i) To spouses or former spouses of the participant;
- (ii) As fees for attorneys for spouses or former spouses of the participant;
- (iii) To dependent children or other dependents of the participant;
- (iv) As fees for attorneys for dependent children or other dependents of the participant;

(c) The following retirement benefits court orders will be considered non-qualifying:

(1) Orders relating to a TSP account that contains only nonvested money, unless the money will become vested within 90 days of the date of receipt of the order if the participant remains in Federal service;

(2)(i) Orders that award an amount to be paid at a future specified date or upon the occurrence of a future specified event, unless:

- (A) The amount of the entitlement can be currently calculated; and
- (B) The award provides for the payment of interest or earnings from the date of calculation to the specified date or event for payment.

(ii) If an order meets the requirements of paragraphs (c)(2)(i) (A) and (B), a current payment will be made in accordance with the procedures set