

## § 1606.8

the amount of the contributions submitted to the incorrect investment fund(s), the pay date for which it was submitted, the investment fund(s) to which it would have been deposited had the employing agency error not occurred, and the investment fund(s) to which it was actually deposited;

(b) The TSP record keeper will compute the amount of lost earnings associated with each lost earnings record submitted by the employing agency pursuant to paragraph (a)(1) of this section. The TSP record keeper will not take into consideration any interfund transfers;

(c) Where the lost earnings computed in accordance with paragraph (a)(2) of this section are positive, the TSP record keeper will charge the amount of lost earnings computed to the appropriate employing agency and will credit that amount to the account of the participant involved. If the earnings computed are negative, the amount computed will be removed from the participant's account and used to offset TSP administrative expenses; and

(d) The lost earnings will be posted to the participant's account pro rata to all investment funds within the same source of contributions based on the most recent valued account balance.

[66 FR 44284, Aug. 22, 2001]

### § 1606.8 Late payroll submissions.

All contributions on payment records contained in a payroll submission received from an employing agency and processed by the TSP record keeper more than 30 days after the pay date associated with the payroll submission (as reported on Form TSP-2, Certification of Transfer of Funds and Journal Voucher) will be subject to lost earnings, as follows:

(a) The TSP record keeper will generate a lost earnings record for each payment record contained in the late payroll submission. The lost earnings records generated by the TSP record keeper will reflect that the contributions on the payment records should have been made on the pay date associated with the payroll submission, that the contributions should have been deposited to the investment fund(s) indicated on the payment records if the pay date was before May 1, 2001, or

## 5 CFR Ch. VI (1-1-03 Edition)

based on the participant's contribution allocation on file as of the pay date if the pay date was on or after May 1, 2001, and that the contributions were actually made on the date the late payroll submission was processed.

(b) The procedures applicable to lost earnings records submitted by employing agencies which are set forth in §1606.5(a)(2) through (a)(4) will be applied to lost earnings records generated by the TSP record keeper pursuant to paragraph (a)(1) of this section.

[66 FR 44284, Aug. 22, 2001]

### Subpart C—Lost Earnings Not Attributable to Delayed or Erroneous Contributions

#### § 1606.9 Loan allotments.

(a) Loan allotments deducted from a participant's pay but not timely received by the TSP recordkeeper due to employing agency error shall be subject to lost earnings. In such cases:

(1) The employing agency must submit a lost earnings record indicating the amount of the loan allotment, the pay date for which the loan allotment was actually submitted, and the pay date for which the loan allotment should have been submitted;

(2) The TSP recordkeeper shall compute lost earnings on the belated loan allotment using the G Fund rates of return for each month of the calculation;

(3) The lost earnings will be posted to the participant's account pro rata to all investment funds within the same source of contributions based on the most recent month-end valued account balance.

(b) Loan allotments not deducted from a participant's pay due to employing agency error will not be subject to lost earnings.

[56 FR 606, Jan. 7, 1991, as amended at 66 FR 44284, Aug. 22, 2001]

#### § 1606.10 Miscellaneous lost earnings.

Where lost earnings result from employing agency errors not specifically covered by this subpart or subpart B, the employing agency must consult with the Board or TSP Recordkeeper to

determine the manner in which the employing agency shall submit lost earnings records or other data necessary to facilitate the payment of lost earnings.

### Subpart D—Lost Earnings Records

#### § 1606.11 Agency submission of lost earnings records.

(a) All lost earnings records required to be submitted pursuant to this part must be submitted to the TSP Recordkeeper in the manner and format prescribed in instructions provided to employing agencies by the Board or TSP recordkeeper.

(b) Where this part requires submission of lost earnings records, the employing agency must submit a separate lost earnings record for each pay period affected by the error. A lost earnings record may include all three sources of contributions, or it may include loan allotments, but may not include both loan allotments and contributions.

(c) Where this part requires the employing agency to indicate on a lost earnings record the investment fund to which a contribution would have been deposited had an employing agency error not occurred, that determination must be made solely on the basis of a properly completed allocation election that was accepted by the employing agency before the date the contribution should have been made, and that was still in effect as of that date. Where no such allocation election was in effect as of the date the contribution would have been made had the error not occurred, the lost earnings record submitted by the employing agency must indicate that the contributions should have been made to the G Fund.

(d) With respect to employing agency errors that cause money not to be invested in the Thrift Savings Fund, lost earnings records may not be submitted until the money to which the lost earnings relate has been invested in the Thrift Savings Fund. Where the employing agency error involved delayed TSP contributions, no lost earnings will be payable unless the associated payment records are submitted in accordance with the provisions of 5 CFR part 1605. Lost earnings records and the delayed payment records to which they

relate should be submitted simultaneously.

(e) Where an employing agency erroneously submits a lost earnings record that is processed by the TSP recordkeeper, the employing agency must consult with the Board or TSP recordkeeper to determine the method to be used in removing the erroneous lost earnings.

(f) Lost earnings records that contain contributions for which lost earnings must be determined at the G Fund rate of return pursuant to §§ 1605.22(a)(4) or 1605.41(a)(3) of this chapter must be accompanied by the special Journal Voucher, Form TSP-2-EG.

[56 FR 606, Jan. 7, 1991, as amended at 66 FR 44284, Aug. 22, 2001]

#### § 1606.12 Agency responsibility.

(a) The employing agency whose error caused the delayed or erroneous investment of money in the Thrift Savings Fund shall, in a manner consistent with paragraph (b) of this section, be ultimately responsible for payment of any lost earnings resulting from that error.

(b) The employing agency that submitted payment records or loan allotments that are subject to lost earnings shall be responsible for submitting lost earnings records relating to those submissions, and any lost earnings calculated shall be charged to that employing agency. Where another employing agency committed the error that caused the delayed or erroneous submission by the first employing agency, the employing agency that was charged for the lost earnings may seek reimbursement from the other employing agency.

### Subpart E—Processing Lost Earnings Records

#### § 1606.13 Calculation and crediting of lost earnings.

(a) Lost earnings records submitted or generated pursuant to this part will be processed by the TSP recordkeeper monthly.

(b) Lost earnings records received, edited, and accepted by the TSP recordkeeper by the next-to-last business day of a month will be processed in the