

(b) Failure by the applicant to comply with any of the requirements of this part will result in rejection of the loan application.

(c) If the recordkeeper accepts the loan application, a Loan Agreement/Promissory Note will be sent to the applicant, as provided in §1655.11. When the completed Loan Agreement/Promissory Note is returned by the applicant, along with documentation, if required to be submitted under §§1655.11(d) and 1655.20, the loan will be initially approved or denied by the recordkeeper based upon the requirements of this part, including the following conditions:

(1) The participant has signed a promise to pay the loan and a statement that the information provided to the recordkeeper is true and complete to the best of the participant's knowledge;

(2) Processing of the loan would not be prohibited by §1655.19 relating to court orders;

(3) A FERS participant's spouse has consented to the loan or, if the spouse's whereabouts are unknown or exceptional circumstances make it inappropriate to secure the spouse's consent, an exception to the spousal requirement described in §1655.18 has been granted;

(4) The completed Loan Agreement/Promissory Note was received by the recordkeeper within 45 days of the date it was prepared;

(5) The participant has completed and signed a loan payment allotment form; and

(6) Any other conditions that the Executive Director may from time to time prescribe.

(d) The loan issue date will occur within 60 days of the date the loan is initially approved unless the recordkeeper determines that:

(1) A court order would prohibit the loan for the reasons described in §1655.19;

(2) The participant's employing agency has reported the death, retirement, or separation of the participant;

(3) The participant's account balance on the loan issue date does not contain sufficient employee contributions and related earnings to make the loan;

(4) The loan exceeds the maximum loan amount set forth in §1655.6(b) as of the most recent valuation date; or

(5) The loan does not comply with any other criteria that the Executive Director may from time to time prescribe.

(e) Loans will be issued once a month. After the loan issue date, the recordkeeper will provide information to the United States Treasury which will permit the Treasury to mail a check for the principal amount of the approved loan to the participant.

(f) A loan is considered to have been made to a participant on the loan issue date.

[61 FR 58755, Nov. 18, 1996]

§ 1655.13 Distributions.

(a) The Board will declare the unpaid loan principal, plus unpaid interest, to be a taxable distribution from the Plan if:

(1) A participant is in confirmed non-pay status for a period of one year or more and the participant has not prepaid the loan as provided in §1655.17;

(2) A participant separates from Government service and does not repay the outstanding loan principal and interest in full within a date which is the earlier of:

(i) 90 calendar days after the date of the notice from the recordkeeper to the participant explaining his or her prepayment options that are available upon separation from Government service; or

(ii) 90 calendar days after the date of the notice from the recordkeeper to the participant that, because his or her payments were incorrect or missing for 90 calendar days (pursuant to §1655.15(a)), his or her loan must be reamortized or prepaid in full or a taxable distribution will be declared;

(3) There are incorrect or missing payments (as described in §1655.15) and the participant fails to or is ineligible to exercise one of the reamortization or repayment in full options set forth in §1655.15;

(4) Any material information provided in accordance with §§1655.10 or 1655.11 is found to be false;

(5) The loan is not repaid in full (including interest due) within five years, in the case of any loan other than a

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loan for purchase of a primary residence, or 18 years, in the case of a loan for purchase of a primary residence, of the loan issue date;

(6) The participant dies.

(b) If a distribution occurs in accordance with paragraph (a) of this section, the Board will notify the participant or, in the case of death, the estate of the amount and date of the distribution. The Board will report the distribution to the Internal Revenue Service as income for the year in which it occurs.

[55 FR 979, Jan. 10, 1990, as amended at 61 FR 58756, Nov. 18, 1996]

§ 1655.14 Loan payments.

(a) Loan payments (except for prepayments) may only be made through a discretionary payroll allotment. The allotment must remain in effect for the life of the loan.

(b) The initial payment on a loan is due on or before the 60th day following the loan issue date. The date when the initial payment is due may be adjusted by the Executive Director from time to time.

(c) Subsequent payments are due at regular intervals according to the participant's pay cycle as prescribed in the Loan Agreement/Promissory Note.

§ 1655.15 Incorrect payments.

(a) If correct payments are not processed by the recordkeeper for a period in excess of 90 calendar days from the applicable one of the following dates:

(1) The date of the last correct payment;

(2) The date of the first incorrect payment, if there have been no prior correct payments; or

(3) The date the first payment was due (as calculated under §1655.14(b)), if there have been no payments;

the procedures stated in paragraph (b) of this section will apply.

(b)(1) Interest from the beginning of the 90-day period described in paragraph (a) of this section will be added to the outstanding loan principal and the participant will be required to reamortize the loan. Generally, a reamortization schedule will be calculated to maintain the remaining number of payments scheduled for the loan. The recordkeeper will prepare

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and send a Rider to the Loan Agreement/Promissory Note and a new payroll allotment form to the participant. The recordkeeper must receive from the participant a signed Rider to the Loan Agreement/Promissory Note and a newly signed payroll allotment form within 45 calendar days of the date the Rider is prepared. If the 45th day falls on a Saturday, Sunday, or a Federal holiday, the deadline will be the next business day.

(2) If the remaining number of payments would cause the loan term to extend beyond 18 years less 120 days from the loan issue date for a loan for the purchase of a primary residence, or five years less 120 days from the loan issue date for any other loan, the recordkeeper will reamortize the loan to enable the entire amount of principal and interest to be repaid within those limits. The recordkeeper will prepare and send to the participant a Rider to the Loan Agreement/Promissory Note and a new payroll allotment form. The recordkeeper must receive from the participant, within 45 calendar days of the date the Rider is prepared, the signed Rider to the Loan Agreement/Promissory Note and a newly signed payroll allotment form. If the 45th day falls on a Saturday, Sunday, or a Federal holiday, the deadline will be the next business day.

(3) If no reamortized payments can be calculated under this section to allow the loan to be repaid within the time limit described in paragraph (b)(2) of this section, and the participant does not prepay the loan in full, a taxable distribution will be declared.

(4) If the reamortized loan principal would exceed the maximum loan amount as calculated under §1655.6(b), the loan will not be reamortized. The participant must prepay the loan in full or a taxable distribution will be declared.

(5) If a participant does not sign and return the Rider to the Loan Agreement/Promissory Note, and the participant does not prepay the loan in full, a taxable distribution will be declared.

(6) A reamortization will be calculated based on the assumption that the reamortization will be completed 50 days after the Rider to the Loan