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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

FACTORIAL (202) 225-4784

MINORITY (202) 225-5074

www.oversight.house.gov

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May 16, 2008

The Honorable Andrew M. Saul
Chairman
Federal Retirement Thrift Investment Board
1250 H St., NW
Washington, DC 20005

Dear Mr. Saul:

The Committee on Oversight and Government Reform is considering legislation to strengthen the federal Thrift Savings Program (TSP). We are writing to seek your comments in this process.

To facilitate your evaluation of potential legislative changes to the TSP, we have prepared a discussion draft. This draft would direct the TSP board to (1) automatically enroll federal employees in the TSP, (2) make the life-cycle funds the default option for employees who do not select a fund, and (3) make a Roth option available to participants.

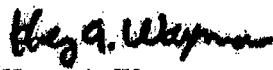
In addition, the discussion draft would authorize the board to add additional low-cost index funds or self-directed investment options to the TSP, if the board determined that this would be in the interests of plan participants.

We regard the TSP as the premier retirement savings program in the nation. But we also recognize that the law creating the TSP was enacted over 20 years ago and has been only infrequently updated. The provisions in the discussion draft reflect ideas for modernizing and strengthening the TSP that we believe merit additional consideration.

The Honorable Andrew M. Saul
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As the Committee moves forward on a bipartisan basis to consider changes to the TSP,
we respectfully solicit your input.

Sincerely,



Henry A. Waxman
Chairman



Tom Davis
Ranking Minority Member



Danny Davis
Chairman

Subcommittee on the Federal Workforce,
Postal Service, and the District of Columbia

[DISCUSSION DRAFT]

MAY 16, 2008

110TH CONGRESS
2D SESSION

H. R. _____

To [Long title: to be provided.]

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To [Long title: to be provided.]

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Thrift Savings Plan Enhancement Act of 2008”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Automatic enrollment of new participants to make individual contribu-
tions.

Sec. 3. Lifecycle fund as default option.

Sec. 4. Qualified Roth contribution program.

Sec. 5. Authority to add investment funds.

Sec. 6. Authority to establish self-directed investment options.

Sec. 7. Technical and conforming amendments.

1 **SEC. 2. AUTOMATIC ENROLLMENT OF NEW PARTICIPANTS**
2 **TO MAKE INDIVIDUAL CONTRIBUTIONS.**

3 (a) IN GENERAL.—Section 8432(b) of title 5, United
4 States Code, is amended by striking paragraphs (2)
5 through (4) and inserting the following:

6 “(2)(A) The Board shall by regulation provide for
7 new participants to be automatically enrolled to make con-
8 tributions under subsection (a) at the default percentage
9 of basic pay.

10 “(B) For purposes of this paragraph, the default per-
11 centage shall be equal to 3 percent or such other percent-
12 age, not less than 2 percent nor more than 5 percent, as
13 the Board may by regulation prescribe.

14 “(C) The regulations shall include provisions under
15 which any individual who would otherwise be automatically
16 enrolled in accordance with subparagraph (A) may—

17 “(i) modify the percentage or amount to be con-
18 tributed pursuant to automatic enrollment, effective
19 from the start of such enrollment; or

20 “(ii) decline automatic enrollment altogether.

21 “(D) For purposes of this paragraph, the term ‘new
22 participant’ means any individual participating in the
23 Thrift Savings Plan pursuant to an appointment or elec-

1 tion which occurs after any regulations under subpara-
2 graph (A) first take effect.

3 “(E) Sections 8351(a)(1), 8440a(a)(1), 8440b(a)(1),
4 8440c(a)(1), 8440d(a)(1), and 8440e(a)(1) shall be ap-
5 plied in a manner consistent with the purposes of this
6 paragraph.”.

7 (b) TECHNICAL AMENDMENT.—Section 8432(b)(1)
8 of title 5, United States Code, is amended by striking the
9 parenthetical matter in subparagraph (B).

10 **SEC. 3. LIFECYCLE FUND AS DEFAULT OPTION.**

11 (a) IN GENERAL.—Section 8438(c)(2) of title 5,
12 United States Code, is amended to read as follows:

13 “(2) If an election has not been made with respect
14 to any sums in the Thrift Savings Fund which are avail-
15 able for investment, the Executive Director shall invest
16 such sums in—

17 “(A) an age-appropriate lifecycle fund (as de-
18 termined under regulations of the Executive Direc-
19 tor); or

20 “(B) an alternative fund (in lieu of any fund
21 under subparagraph (A)) which the Board may des-
22 ignate in regulations.

23 The designation of an alternative fund by regulations
24 under subparagraph (B) may be made only if, in the judg-
25 ment of the Board, such designation would be in the best

1 interests of participants. Any decision under the preceding
2 sentence shall be made in consultation with the Employee
3 Thrift Advisory Council (established under section
4 8473).”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect as of the earliest date that
7 is administratively feasible, as determined by the Execu-
8 tive Director.

9 **SEC. 4. QUALIFIED ROTH CONTRIBUTION PROGRAM.**

10 (a) IN GENERAL.—Subchapter III of chapter 84 of
11 title 5, United States Code, is amended by inserting after
12 section 8432c the following:

13 **“§ 8432d. Qualified Roth contribution program**

14 “(a) DEFINITIONS.—For purposes of this section—

15 “(1) the term ‘qualified Roth contribution pro-
16 gram’ means a program described in paragraph (1)
17 of section 402A(b) of the Internal Revenue Code of
18 1986 which meets the requirements of paragraph (2)
19 of such section; and

20 “(2) the terms ‘designated Roth contribution’
21 and ‘elective deferral’ have the meanings given such
22 terms in section 402A of the Internal Revenue Code
23 of 1986.

24 “(b) AUTHORITY TO ESTABLISH.—The Board shall
25 by regulation provide for the inclusion in the Thrift Sav-

1 ings Plan of a qualified Roth contribution program, under
2 such terms and conditions as the Board may prescribe.

3 “(c) REQUIRED PROVISIONS.—The regulations under
4 subsection (b) shall include—

5 “(1) provisions under which an election to make
6 designated Roth contributions may be made—

7 “(A) by any individual who is eligible to
8 make contributions under section 8351,
9 8432(a), 8440a, 8440b, 8440c, 8440d, or
10 8440e; and

11 “(B) by any individual, not described in
12 subparagraph (A), who is otherwise eligible to
13 make elective deferrals under the Thrift Sav-
14 ings Plan;

15 “(2) any provisions which may, as a result of
16 the enactment of this section, be necessary in order
17 to clarify the meaning of any reference to an ‘ac-
18 count’ made in section 8432(f), 8433, 8434(d),
19 8435, 8437, or any other provision of law; and

20 “(3) any other provisions which may be nec-
21 essary to carry out this section.”.

22 (b) CLERICAL AMENDMENT.—The analysis for chap-
23 ter 84 of title 5, United States Code, is amended by insert-
24 ing after the item relating to section 8432c the following:

“8432d. Qualified Roth contribution program.”.

1 **SEC. 5. AUTHORITY TO ADD INVESTMENT FUNDS.**

2 (a) **IN GENERAL.**—Section 8438(b)(1) of title 5,
3 United States Code, is amended—

4 (1) in subparagraph (D), by striking “and” at
5 the end;

6 (2) in subparagraph (E), by striking the period
7 and inserting “; and”; and

8 (3) by adding after subparagraph (E) the fol-
9 lowing:

10 “(F) any additional investment funds, as
11 described in paragraph (5), which the Board
12 considers appropriate.”.

13 (b) **REQUIREMENTS.**—Section 8438(b) of title 5,
14 United States Code, is amended by adding at the end the
15 following:

16 “(5)(A) Any fund under paragraph (1)(F) shall sat-
17 isfy each of the following:

18 “(i) The fund is a low-cost, passively managed
19 index fund.

20 “(ii) The fund offers significant diversification
21 benefits.

22 “(iii) Plan participants will benefit from having
23 the fund available as an option.

24 “(B) In deciding whether or not to offer a new fund
25 under paragraph (1)(F), the Board—

1 “(i) shall consult with the Employee Thrift Ad-
2 visory Council (established under section 8473); and

3 “(ii) shall take into account any additional costs
4 involved in offering the fund, the question of wheth-
5 er adding the fund would confuse participants by
6 complicating their investment choices, and any other
7 factors which the Board considers appropriate.

8 “(C) A new fund under paragraph (1)(F) may not
9 be offered until after the end of the 90-day period fol-
10 lowing the date on which the Board provides written notice
11 to each House of Congress of its intention to provide for
12 such fund.”.

13 **SEC. 6. AUTHORITY TO ESTABLISH SELF-DIRECTED IN-**
14 **VESTMENT OPTIONS.**

15 (a) IN GENERAL.—Section 8438(b)(1) of title 5,
16 United States Code (as amended by section 5) is further
17 amended—

18 (1) in subparagraph (E), by striking “and” at
19 the end;

20 (2) in subparagraph (F), by striking the period
21 and inserting “; and”; and

22 (3) by adding after subparagraph (F) the fol-
23 lowing:

1 “(G) self-directed investment options, if
2 the Board authorizes such options under para-
3 graph (6).”.

4 (b) REQUIREMENTS.—Section 8438(b) of title 5,
5 United States Code (as amended by section 5(b)) is fur-
6 ther amended by adding after paragraph (5) the following:

7 “(6)(A) The Board may authorize the addition of
8 self-directed investment options under the Thrift Savings
9 Plan if the Board determines that the addition of such
10 options would be in the best interests of participants.

11 “(B) The Board may establish such terms and condi-
12 tions for any self-directed investment options, including
13 limitations on available investments, requirements relating
14 to fees or expenses, or other restrictions, requirements, or
15 limitations, as the Board considers appropriate to protect
16 the interests of participants.

17 “(C) The Board shall consult with the Employee
18 Thrift Advisory Council (established under section 8473)
19 before establishing any self-directed investment option.”.

20 **SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.**

21 (a) Section 8439(d) of title 5, United States Code,
22 is amended—

23 (1) by striking the matter after “who elects to
24 invest in” and before “shall sign an acknowledge-
25 ment” and inserting “any investment fund or option

1 under this chapter, other than the Government Se-
2 curities Investment Fund,";

3 (2) by striking "either such Fund" and insert-
4 ing "any such fund or option".

5 (b) Section 8439(d) of title 5, United States Code
6 (as amended by subsection (a)) is further amended by
7 adding after the last sentence the following: "Nothing in
8 this subsection shall be considered to apply with respect
9 to any amounts which are invested, in the absence of an
10 investment election, in accordance with section
11 8438(c)(2).".

12 (c) Subsection (d) of section 8439 of title 5, United
13 States Code (as amended by subsections (a) and (b)) is
14 further amended—

15 (1) by redesignating such subsection (d) as sub-
16 section (d)(1); and

17 (2) by adding at the end the following:

18 "(2)(A) A participant or beneficiary shall be treated
19 as exercising control over the assets in such participant's
20 or beneficiary's account with respect to the amount of con-
21 tributions and earnings which, in the absence of an invest-
22 ment election by the participant, are invested by the Plan
23 in accordance with this section.

1 “(B) When a participant or beneficiary exercises con-
2 trol over the assets in such participant’s or beneficiary’s
3 account—

4 “(i) such participant or beneficiary shall not be
5 deemed to be a fiduciary by reason of such exercise,
6 and

7 “(ii) no person who is otherwise a fiduciary
8 shall be liable under this section for any loss, or by
9 reason of any breach, which results from such par-
10 ticipant’s or beneficiary’s exercise of control.”.