



STATE OF WISCONSIN
Department of Employee Trust Funds

Eric O. Stanchfield
SECRETARY

801 W Badger Road
PO Box 7931
Madison WI 53707-7931

1-877-533-5020 (toll free)
Fax (608) 267-4549
TTY (608) 267-0676
<http://etf.wi.gov>

CORRESPONDENCE MEMORANDUM

DATE: September 11, 2003
TO: Employee Trust Funds Board
FROM: Linda Owen, Benefit Plan Policy Analyst
Division of Retirement Services
SUBJECT: Final Rule on Annuity Dividend Distribution Date

The Department requests the Boards' approval of the proposed amendment to ETF 20.25 (1) and (2), the rule provisions governing the distribution date for annuitant dividends. The amended rule would return the date on which annual annuity dividends are effective to the May 1 payment each year.

The Department held a public hearing on August 8, 2003. No one appeared at the hearing to offer testimony, nor did anyone submit written testimony supporting or opposing the rule.

In 2002 the rule was amended to change the annuitant dividend distribution date from April 1 (reflected in the May 1 annuity payment) to March 1 (the April 1 payment). Annuitant groups had requested that the dividends be distributed as early as possible in the year, and the purpose of the amendment was to get the annual dividend increases into the annuitants' hands one month sooner.

The amended rule became effective on October 1, 2002, and this year the dividend was to be distributed one month earlier for the first time. However, as a result of recent fixed and variable investment losses, there was no fixed annuity increase this year, and variable annuities were decreased by 27%. To preclude the hardship that the earlier distribution date would have caused annuitants in the short term, an emergency rule was promulgated early in 2003 to move the dividend distribution date back to the May 1 payment. Since the emergency rule applied only to the 2003 dividend, in 2004 the dividends will become effective on the April 1 payments if no further action is taken on the permanent rule.

Because the fixed fund investment losses in the last three years will be carried into future years through the Market Recognition Account, within the next few years the Department anticipates no fixed annuity increases and a strong likelihood of decreases. Based on careful consideration of the alternatives and their potential consequences to annuitants, the Department recommends amending the rule to return the annual distribution date back to the May 1 payment. This is consistent with the date on which annual annuity adjustments have always been applied and will safeguard annuitants from the short-term adverse effects of applying an annuity decrease one month earlier than in the past.

Attachment

Board	Mtg Date	Item #
JL	9/25/2003	5
TR	9/25/2003	5
WR	9/25/2003	6
ETF	9/26/2003	5

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS, EMPLOYEE TRUST FUNDS BOARD
TEACHERS RETIREMENT BOARD, and WISCONSIN RETIREMENT BOARD**

FINAL DRAFT REPORT ON CLEARINGHOUSE RULE #03-062

A RULE Amending ss. ETF 20.25 (1) (a) and (2), Wisconsin Administrative Code, relating to the annuity dividend effective date.

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Agency Person to be Contacted for Questions

For information about this rule, please contact: Linda Owen, Program and Planning Analyst, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707-7931. Telephone: (608) 261-8164. FAX: (608) 267-0633.

Statement Explaining Need for Rule

The Department of Employee Trust Funds is required by Wis. Stats. § 227.10 (1) to promulgate as a rule each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute. This rule amends ss. ETF 20.25 (1) (a) and (2), Wisconsin Administrative Code, relating to the annuity dividend effective date in accordance with the provisions of s. 227.16 (1), Wisconsin Statutes.

Analysis Prepared by the Wisconsin Department of Employee Trust Funds

Wis. Stats. § 40.03 (1) (m), (2) (i), (7) (d) and (8) (d).

Statutes Interpreted: Sections 40.27 (2) and 40.28 (2).

The amended rule would return the date on which annual annuity dividends are effective to the May 1 payment each year. In 2002 the rule had been amended to change the annuitant dividend distribution date from April 1 to May 1, in order to distribute dividends as early as possible. As a result of recent investment losses, there was no fixed annuity increase this year and variable annuities were decreased by 27%. To preclude the hardship that the earlier date would have caused annuitants, an emergency rule was promulgated early in 2003 to move the dividend distribution date back to the May 1 payment. Because the fixed fund investment losses in the last three years will be carried into future years through the Market Recognition Account, within the next few years the Department anticipates no fixed annuity increases and even potential decreases. Consequently, the Department recommends amending the rule to return the annual distribution date back to the May 1 payment. This action is needed since the emergency rule applied only to the 2003 dividend, and in 2004 the dividend payments will become effective on April 1 if no further action is taken on the permanent rule.

Fiscal Estimate

The proposed rule has no fiscal impact on county, city, village, town, school district, technical college district or sewerage district fiscal liabilities and revenues. The rule itself has no anticipated state fiscal effect during the current biennium and no future side effect on state funds.

Final Regulatory Flexibility Analysis

The Department anticipates that the provisions of this proposed rule will have no direct adverse effect on small businesses.

(BEGINNING OF RULE TEXT)

SECTION 1. ETF 20.25 (1) (a) is amended to read:

ETF 20.25 (1) (a) Except as otherwise provided in par. (b), a fixed annuity dividend, as recommended by the actuary and approved by the chair of the employee trust funds board and the department's secretary, shall be distributed based on each December 31 valuation as specified in s. 40.27 (2), Stats. The dividend shall be effective on the ~~March~~ April 1 following the valuation date and shall apply to fixed annuities effective on or prior to the date of the valuation. As authorized under s. 40.27 (2) (b), Stats., different percentages shall be determined for annuities effective for less than a full year on the valuation date. The percentages shall be determined by multiplying the number of full months the annuity was in force times the percentage change applicable to annuities effective for the full year, dividing the result by 12 and rounding the answer to the nearest tenth of a percent. No increase shall be applied to any annuity for which the resulting increase would be less than one-tenth of a percent.

SECTION 2. ETF 20.25 (2) is amended to read:

ETF 20.25 (2) Variable annuity changes, as recommended by the actuary and approved by the secretary, shall be made based on each December 31 valuation as specified in s. 40.28 (2), Stats. The changes shall be effective on the ~~March~~ April 1 following the valuation and shall apply to variable annuities effective on or prior to the date of the valuation, regardless of whether the annuity becomes a fixed annuity in the following year.

(END OF RULE TEXT)

Effective Date

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in Wis. Stat. § 227.22 (2).

Explanation of Modifications as Result of Testimony at Public Hearing

No testimony was offered at the public hearing.

List of Persons Appearing or Registering For or Against the Rules

No persons appeared or registered either for or against the rule at the public hearing on August 8, 2003. The record was held open for written comments until August 11, 2003, but no comments were received.

Legislative Council Staff Clearinghouse Report on CR #03-062

(See pages 4 – 7)

Response to Legislative Council Staff Recommendations

No recommendations for change were made.

Board Authorization for Promulgation

This final draft report on Clearinghouse Rule #03-062 has been duly approved for submission to the Legislature and for promulgation by the Employee Trust Funds Board at its meeting on September 26, 2003, and by both the Teachers Retirement and Wisconsin Retirement Boards at their respective meetings on September 25, 2003.

Respectfully submitted,

DEPARTMENT OF EMPLOYEE TRUST FUNDS

Eric O. Stanchfield, Secretary
Wisconsin Department of Employee Trust Funds