



## S-60/ORP IMPLEMENTATION UPDATE #25 (4/3/18)

### PROGRESS REPORT

On March 26, 2018 MTA met with representatives of the State Retirement Board (SRB) and the Department of Higher Education (DHE) to review implementation of Section 60.

MTA continues to press for written information that can be published so that members who are trying to plan their futures can access comprehensive instructions for completing the Section 60 process.

What follows is a summary of the main topics discussed on March 26th.<sup>1</sup>

#### **1. Delay by the SRB in cashing checks, updating service cost and sending “bills”**

After noting the kinds of extreme and unexplained delays that members continue to face, we were assured that the SRB staff member who has been out on maternity leave is back and will be working full-time on Section 60.

#### **2. Paying those ORP assets still due after transfer of liquid assets**

The SRB, the DHE and MTA have agreed on the revised instructions for one method of completing Section 60 payments, i.e., requesting Traditional assets from TIAA within 120 days after the last day of employment.

These procedures are expected to be posted on the DHE website the week of April 2<sup>nd</sup> at [www.mass.edu/orp](http://www.mass.edu/orp). SRB staff will be prepared to refer members to those instructions. This should help prevent some of the confusion that has resulted from lack of written information about this aspect of Section 60.

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<sup>1</sup> For convenience, “EE” refers to “employee,” and “ER” refers to employer.” The term “EE-funded assets” refers to those ORP assets funded by required employee contributions plus net investment gains and interest, and “ER-funded assets” refers to the Commonwealth’s contributions to the ORP account plus net investment gains and interest.

Another question has been answered by the SRB (although written procedures have not been produced yet). The SRB now agrees that Transfer Payout Annuities (TPA's) or Systematic Withdrawals (SWAT's) can be used to pay down one's Section 60 obligations without having to wait until after termination of employment.

In December MTA recommended allowing members to use TPA/SWAT installments that have all been invested in liquid ORP funds (leaving no assets in a TIAA Traditional account) to pay off their Section 60 obligations while still employed. At the March 26<sup>th</sup> meeting the SRB agreed that this can be done.

Once those installments have completely emptied the Traditional account (in 7 years for SWAT's or 10 years for TPA's), all remaining ORP assets would then be liquid and could be transferred in a single transaction from the ORP to the MSERS. This would allow completion of Section 60, thereby aiding the member as well as the SRB and the DHE.

### **3. Charging interest**

The SRB continues its practice of not charging interest where the balance of Section 60 service cost remains in a TIAA Traditional ORP account. The SRB has not determined when it might resume charging interest, but indicated that it expects to do so at some point. MTA again urged continuing the moratorium on interest charges and reminded the SRB representatives that no interest can be charged on ER assets or on any EE assets that exceed the service cost.

The SRB described the transaction as a "service purchase," for which interest is always charged. MTA distinguished this from a service purchase in that the Section 60 law entitles the state to collect increasing balances from ORP accounts from ER-funded assets and from the excess of EE-funded assets.

### **4. What happens to Traditional ORP assets after payment of the service cost?**

MTA reviewed another matter related to payment of SRB bills for service cost balances, the allocation of future earnings on the amount equivalent to the amount paid from non-ORP sources for the service cost. It appears that both the SRB and the DHE agree with MTA that earnings on amounts equivalent to service cost are to be paid to the member, not to the MSERS.

This is made more complicated by the fact that in some cases, liquid "rollover" assets were used to pay toward the service cost when liquid assets were transferred. Where EE-funded assets exceed the service cost, those rollover assets might not have been necessary to pay the service cost. MTA's position is that the value of such assets and the earnings on the value of rollover assets that were applied to the service cost should be paid to the member when Traditional assets become available.

These details have to be spelled out.

## 5. **Misplaced assurances**

MTA again objected to erroneous statements to some Section 60 members who have ORP assets remaining in a TIAA Traditional account (or a TPA/SWAT) after liquid assets have been transferred. Apparently not all SRB staff know that such members owe more ORP assets even after they pay their service cost. We emphasized that SRB staff need a written protocol to follow in advising members who came into the MSERS under Section 60.

Members who transferred or who are transferring from the ORP are urged to identify themselves as “Section 60” when speaking with SRB staff and to keep in mind the following:

**The total price of transferring from the ORP to the MSERS includes the Section 60 service cost, and EE-funded ORP assets in excess of the service cost and all ER-funded ORP assets.**

Unfortunately, some members approach retirement believing that they can rely on having remaining Traditional assets (or TPA/SWAT assets) that, in fact, they owe to the MSERS.

## 6. **Retiring or leaving soon? Remember the 120-Day Process**

As indicated above, certain assets from your TIAA Traditional account (and related TPA/SWAT-based assets) will have to be paid to the state, even if you pay the balance of your service cost.

MTA noted that May 31<sup>st</sup> is a common retirement date among faculty. That will mean that there will be an increase in the numbers of members who will need to use TIAA’s 120-day procedure to access Traditional (and TPA/SWAT) assets to pay off their Section 60 obligations. If any TPA/SWAT installments were invested in ORP accounts with VALIC or Fidelity, those providers will have to be contacted as well.

MTA asked the DHE representatives if they would ask campus ORP administrators to notify members who talk to HR about their upcoming retirement.

The details are expected to be on the DHE website at [www.mass.edu/orp](http://www.mass.edu/orp) the week of April 2nd.

## 7. **Leaving state employment before completing Section 60**

This is another area where MTA is urging adoption of consistent procedures by agreement between the SRB and the DHE.

## **8. Other Open Issues**

MTA has brought to the attention of the SRB other Section 60 details remain to be addressed. These include topics such as use of after-tax money by an individual to pay the equivalent of ER assets and complications caused by Required Minimum Distributions, what steps are appropriate for a member who misses the 120-day deadline for making a post-termination request for Traditional assets, what constitutes involuntary termination where a member cannot accrue the full ten FTE years of creditable service.

At least one of these matters appears to be beyond the SRB's jurisdiction: the SRB representatives said that they would have to ask the Pension Reserve Investment Management Board if it would be possible for the Pension Reserve Investment Trust to accept payments from individuals and payments of after-tax money.

## **9. Assistance**

For information about your service or cost calculation, or about receiving a bill or paying a bill, or about uncashed checks, contact the State Retirement Board at [orpinfo@tre.state.ma.us](mailto:orpinfo@tre.state.ma.us).

For information about the asset transfer process (including uncashed checks) or RMD's contact the Department of Higher Education at [ORP@bhe.mass.edu](mailto:ORP@bhe.mass.edu).

If you are unable to get an answer, or are confused about an answer or where to direct a question, please contact the MTA at [orp@massteacher.org](mailto:orp@massteacher.org).