Office of Regulatory Activities

Thrift Bulletin

Handbooks: Thrift Activities
Trust Activities
Subjects: Capital Market Activities (Thrift)
Custody, Control and Processing of Assets (Trust)

Sections: 440
320
TB 27

May 24, 1989

Government Securities Act of 1986

Summary: This Bulletin alerts institutions to their notification responsibilities when acting as government securities brokers or dealers, and their compliance responsibilities when holding government securities for customers.

For Further Information Contact:
The FHLBank District in which you are located or the Policy Analysis Division of the Office of Regulatory Activities, Washington, DC.

Supplementary Information:
The Government Securities Act of 1986 (GSA) (Public Law No. 99-571) and the implementing regulations adopted by the Department of the Treasury (17 C.F.R. Chap. IV, 52 FR 27910 as amended August 1, 1988, 53 FR 28979) contain requirements relating to government securities activities of financial institutions, including thrift institutions, in three main areas.

First, thrift institutions that are government securities brokers or dealers are required to notify the Federal Home Loan Bank Board of their status as such by the later of July 25, 1987 or the date of their becoming a government securities broker or dealer, and to comply with applicable requirements relating to those activities.

Second, thrift institutions that engage in repurchase transactions with customers while retaining custody or control of government securities ("hold-in-custody" repurchase transactions) must comply with requirements relating to written agreements, confirmations and disclosures.

Third, thrift institutions that hold government securities as fiduciary, custodian or otherwise for the account of a customer must comply with requirements relating to the safeguarding and custody of those securities.

The latter two requirements are applicable regardless of whether an institution has filed notice as a government securities broker or dealer.

All thrift institutions may not be sufficiently aware of the notification requirements and the other requirements imposed by the GSA and its implementing regulations. This Bulletin addresses the notification requirements. In addition, three attachments are included with this Bulletin. The first attachment is a booklet containing instructions and blank forms for any institution required to notify the Federal Home Loan Bank Board. The second attachment is a release that provides general information concerning those portions of the regulations that apply to all financial institutions, including those whose limited government securities activities may exempt them from filing a broker-dealer notice with their federal regulator. A substantially similar release is being distributed by the Federal financial institutions supervisory agencies. The third attachment contains excerpts from the GSA implementing regulations.

Thrift Bulletin 27

Background:

Prior to passage of the GSA, the government securities market was largely unregulated, except for the activities of certain primary dealers. This lack of regulation, among other things, was felt to have contributed to a number of failures of government securities dealers in the last several years and the resultant losses to investors in government securities. Specifically contributing to these failures and losses were transactions such as the sale of multiple interests in the same securities under several repurchase agreements while maintaining custody of the securities and the pledging of customer securities without transferring title or possession. Other factors contributing to failures and losses were inadequate books and records and the lack of adequate capital maintained by government securities broker-dealers. The GSA and implementing regulations were enacted to address these problems.

The GSA and implementing regulations established, for the first time, a federal system for regulation of brokers and dealers who transact business in government securities. Title I of the GSA gave the Department of the Treasury rulemaking authority in certain areas. Title I and Parts 400-405 and 449 of the regulations

contain provisions relating to financial responsibility, protection of investor securities and funds, recordkeeping, reporting, and audit of government securities brokers and dealers. Title II of the GSA and Part 450 of the regulations contain provisions relating to the custody of government securities held by depository institutions.

The stated purpose of the GSA and implementing regulations is to enhance the protection of investors in government securities by establishing and enforcing appropriate financial responsibility and custodial standards. At the same time, the standards respect and protect the integrity, liquidity and efficiency of the world's largest securities market, which the GSA considers vital to the effective implementation of fiscal and monetary policy in the United States.

Definition:

For purposes of the GSA, government securities are defined to include (1) direct obligations of, or obligations guaranteed as to principal or interest by, the United States, (2) securities issued or guaranteed as to principal or interest by corporations in which the United States has a direct or indirect interest, and which are designated by the Secretary of the Treasury for exemption, and (3) securities issued or guaranteed by corporations designated by statute to constitute exempt securities. In addition, "off exchange" puts, calls, straddles or options on such securities are considered to be government securities for all parts of the GSA regulations, except for Part 450. More specifically, government securities include:

- U.S. Treasury bills, bonds and notes;
- Discount notes, bonds, certain collateralized mortgage obligations, pass-throughs, master notes, and other obligations of the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Student Loan Marketing Association (SLMA), Federal Home Loan Banks, Farm Credit Banks and the Financing Corporation; and
- FNMA stock.

Notification Requirements:

The GSA requires all government securities brokers or dealers that were previously unregistered to register with the Securities and Exchange Commission and to join a self-regulatory organization. In lieu of registration, financial institutions that act as a government securities broker or dealer are required to file a written notice of their status with their appropriate regulatory agency by the later of July 25, 1987 or the date the financial institution begins to operate as a government securities broker or dealer. The Federal Home Loan Bank Board is the appropriate regulatory agency for a Federal savings and loan association, a Federal savings bank, or an institution insured by the Federal Savings and Loan Insurance Corporation.

Notice by thrift institutions of their government securities broker or dealer activities is to be filed on Forms G-FIN and G-FIN-4. Once an institution has filed notice of its status as a government securities broker or dealer, any changes to the status of its filing must be reported within 30 days. If a thrift institution ceases its government securities activities, it must file a notice of termination using Form G-FIN-W. One set of instructions and blank forms is attached to this Bulletin.

The following activities in connection with government securities will generally bring a thrift institution within the definition of a government securities broker:

- Representing itself as a government securities broker or interdealer broker, or
- Actively soliciting purchases or sales of government securities on an agency basis.

The following activities in connection with government securities will generally bring a thrift institution within the definition of a government securities dealer:

- Underwriting or participating in a selling group for the sale of government securities,
- Advertising or otherwise representing itself to other dealers or investors as a dealer in government securities, or
- Quoting a market for government securities, and in connection with such quotations, standing ready to purchase or sell government securities.

A thrift institution that buys or sells government securities solely for investment for its own account or for accounts for which it acts as fiduciary will not generally be classified as a broker or dealer even though such purchases and sales are made with some frequency.

Exemptions From Notification Requirements:

The GSA regulations permit financial institutions that engage in certain limited activities to be exempt from some, but not all, of the regulations.

A thrift institution may engage solely in the following government

Form G-FIN

Notice By Financial Institutions of Government Securities Broker or Government Securities Dealer Activities

(This booklet includes instructions and blank forms)

Board of Governors of the Federal Reserve System

Federal Deposit Insurance Corporation

Office of the Comptroller of the Currency

Federal Home Loan Bank Board

Securities and Exchange Commission

Larry Clarke - Compliance

NOTICE REQUI

This notice must be filed by all financial institutions that are government securities brokers or government securities dealers that are not exempt from the notice requirement under regulations of the Department of Treasury. Generally, a financial institution will not be required to file as a government securities broker or dealer if its only government securities activities are to: (1) Buy or sell government securities solely for investment for its own account; (2) Buy or sell government securities for fiduciary transactions; (4) Submit tenders for the account of customers for purchase on original issue of U.S. Treasury securities; (5) Enter into repurchase or reverse repurchase agreements; (6) Effect fewer than 500 government securities brokerage transactions per year; (7) Effect brokerage transactions only through another government securities broker or dealer on a fully disclosed basis; or (8) Effect brokerage transactions that do not involve active solicitations.

For further information on the requirements to file this notice, please refer to the instructions.

Instructions for Completing Notice of Government Securities Broker or Government Securities Dealer Activities by Financial Institutions

GENERAL INFORMATION AND INSTRUCTIONS

A. Terms and Abbreviations

1. "Act" refers to the Securities Exchange Act of 1934, as amended by the Government Securities Act of 1986.

2. "ARA" refers to the financial institution's appropriate regulatory agency, as defined in section 3(a)(34)(G) of the Act. See general instruction (E) below for a listing of appropriate regulatory agencies.

3. "Government securities" are defined in section 3(a)(42) of the Act. In general, this term refers to direct obligations of or obligations guaranteed as to principal or interest by the United States; securities issued or guaranteed as to principal or interest by corporations designated by statute or by the Secretary of the Treasury to constitute exempt securities; and puts, calls, straddles or options on such securities. Although not all inclusive, the following are the more common types of government securities covered by the term: U.S. Treasury bills, bonds, notes; discount notes, bonds, certain collateralized mortgage obligations, pass throughs, master notes, and other obligations, of the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Student Loan Marketing Association (SLMA), Federal Home Loan Banks and Farm Credit Banks; securitized Small Business Association (SBA) loans; and FNMA stock.

4. "Government securities broker" is defined in section 3(a)(43) of the Act. In general, this term refers to a financial institution that is regularly engaged in the business of effecting transactions in government securities for the account of others.

5. "Government securities dealer" is defined in section 3(a)(44) of the Act. In general, this term refers to a financial institution engaged in the business of buying and selling government securities for its own account but does not include a financial institution insofar as it buys or sells securities for its own account but not as a part of its regular business, or in a fiduciary capacity.

6. "Financial institution" is defined in Section 3(a)(46) of the Act. In general, the term refers to any national or State chartered bank or trust company which is supervised and examined by a State or Federal bank supervisory agency, a foreign bank, and any other institution whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

7. "Associated person" is defined by Treasury regulation (17 C.F.R. 400.3(c)) to mean a person directly engaged in any of the following activities in either a supervisory or non-supervisory capacity: underwriting, trading or sales of government securities; financial advisory or consultant services for issuers in connection with the issuance of government securities; other communications with public investors, or research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described above. The term is further defined in Section 400.3(c) to cover persons engaged in the following activities in a supervisory capacity: processing and clearance activities with respect to government securities; and maintenance of records involving any of the activities described in this paragraph.

   This definition does not include directors and senior officers of the financial institution who may from time to time set broad policy guidelines affecting the financial institution as a whole, but are not directly involved in the conduct of the financial institution's government securities business on a day-to-day basis. It also does not cover persons whose functions are solely clerical or ministerial, persons who are acting in a fiduciary capacity, or persons who act solely as order takers without giving investment advice or receiving transaction-based compensation.

B. Who Must File?

Under Section 15C (a)(1)(B) of the Act, any financial institution that is a government securities broker or government securities dealer within the foregoing definitions must file with its ARA a written notice, on the form prescribed herein, except as described below.

A financial institution that buys and sells securities solely for investment for its own account or for accounts for which it acts as a fiduciary will not generally be classified as a dealer, even though such purchases and sales are made with some frequency. Virtually every financial institution purchases government securities for investment; and purchases and sales may occur to accommodate changes in the financial institution's financial position or to reflect investment decisions. The legislative history of the Act indicates that Congress did not intend to require financial institutions engaged in such investment-type activity to register as dealers.

The Department of the Treasury has exempted financial institutions that engage solely in the following activities:

(1) Acting as issuing agent, payment agent or forwarding agent for U.S. Savings Bonds (17 C.F.R. 401.1);

(2) submission of tenders for the account of customers for purchase on original issue of U.S. Treasury securities (17 C.F.R. 401.2);
(3) the sale and subsequent repurchase and the purchase and subsequent resale of government securities pursuant to a repurchase or reverse repurchase agreement (17 C.F.R. 401.4); or
(4) sales or purchases in a fiduciary capacity (17 C.F.R. 401.4).

In general, government securities activities that may bring a financial institution within the definition of government securities dealer include the following: (1) underwriting or participating in a selling group for the sale of government securities; (2) advertising or otherwise holding itself out to other dealers or investors as a dealer in government securities; or (3) quoting a market for government securities, and in connection with such quotations, standing ready to purchase or sell government securities.

The Department of the Treasury also has exempted (17 C.F.R. 401.3) any financial institution from the definition of government securities broker unless it (1) holds itself out as a government securities broker or interdealer broker; or (2) actively solicits individual purchases or sales of government securities on an agency basis. In addition, a financial institution will be exempt if it (a) effects less than 500 brokerage transactions per year or (b) except for U.S. Savings Bonds and submissions of tenders for U.S. Treasury securities (as described above), effects all brokerage transactions through a government securities broker or dealer who is clearly identified as the entity providing the brokerage services, and who meets the other conditions of the exemption.

A branch or agency of a foreign bank that engages in government securities transactions solely with non-U.S. citizens that are resident outside the United States is also exempt (17 C.F.R. 401.6).

C. When to file

A financial institution that is acting as a government securities broker or government securities dealer on July 25, 1987, must file a notice with its ARA on or before that date and any financial institution that proposes to act as a government securities broker or government securities dealer after that date shall file the notice before it commences operations.

D. Amendments

In the event any of the information previously submitted on this notice becomes incomplete, inaccurate or no longer applicable, the notice must be amended. This amendment must be filed within 30 calendar days of the notice becoming inaccurate (17 C.F.R. 400.5(b)).

Items 1, 2, 3 and 7 of the notice shall be completed for each amendment. Otherwise, only those items which are being amended need to be completed.

E. How and where to file: Number of copies

Each financial institution must file two copies of the notice and each amendment with its ARA, one of which will be sent by the ARA to the SEC. Retain one exact copy for your records. A financial institution may determine the name and address of its ARA from the following:

1. A national bank, a bank operating in the District of Columbia that is examined by the Comptroller of the Currency, or a Federal branch or Federal agency of a foreign bank, files with the:

   Office of the Comptroller of the Currency
   Administrator of National Banks
   Division of Investment Securities
   Washington, D.C. 20219

2. A State member bank of the Federal Reserve System, a foreign bank, a State branch or a State agency of a foreign bank, or a commercial lending company owned or controlled by a foreign bank, files with the:

   Board of Governors of the
   Federal Reserve System
   Division of Banking Supervision & Regulation
   Securities Regulation Section
   Washington, D.C. 20551

3. A bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member of the Federal Reserve System or a Federal savings bank) files with the:

   Federal Deposit Insurance Corporation
   Division of Bank Supervision
   Securities Analysis Unit
   Washington, D.C. 20429

4. A Federal savings and loan association, Federal savings bank, or an institution insured by the Federal Savings and Loan Insurance Corporation, files with the:

   Federal Home Loan Bank Board
   Office of the General Counsel
   Corporate and Securities Division
   1700 G Street, N.W.
   Washington, D.C. 20552

5. A State chartered bank or a State chartered trust company that is not a member of the Federal Reserve System and whose deposits are not insured by the Federal Deposit Insurance Corporation, or any other financial institution not described in the preceding paragraphs, files with the:

   Securities and Exchange Commission
   450 Fifth Street, N.W.
   Washington, D.C. 20549

F. Privacy Act Notice

Collection of the information to be supplied on this form is authorized by section 15C(a)(1)(B) of the Securities Exchange Act of 1934, 15 U.S.C. 78o-5(a)(1)(B). Disclosure is mandatory for all financial institutions that act as government securities brokers or government securities dealers that are not exempted from filing under Treasury Department regulations (see 17 C.F.R. Part 401). The principal purpose of this notice is to identify to the appropriate regulatory agencies those financial institutions that act as government securities brokers or government securities dealers and are subject to regulation under the Act. Information supplied on this form will be included routinely in the public files of the appropriate regulatory agencies and will be available for inspection by any interested person. In addition, the Securities and Exchange Commission will maintain copies of all G-FIN notices in the public files, and will make them available for public inspection by any interested person. Financial institutions that do not provide the information solicited on this form may not lawfully act as government securities brokers or government securities dealers unless exempt from the notice requirement by Treasury Department regulation (17 C.F.R. Part 401).

Form G-FIN

FR G-FIN
OMB No. 7100-0224
Approval expires July, 1990

OFFICIAL USE

Notice of Government Securities Broker or Government Securities Dealer Activities To Be Filed by a Financial Institution Under Section 15C(a)(1)(B) of the Securities Exchange Act of 1934

1. Appropriate regulatory agency (check one):

A. ☐ Comptroller of the Currency
B. ☐ Board of Governors of the Federal Reserve System
C. ☐ Federal Deposit Insurance Corporation
D. ☐ Federal Home Loan Bank Board
E. ☐ Securities and Exchange Commission

2. Filing status of notice (check as applicable):

A. ☐ Government Securities Broker
B. ☐ Government Securities Dealer
C. ☐ Government Securities Broker and Dealer
D. ☐ Notice
E. ☐ Amendment

3. A. Full name of the Financial Institution:

_____

B. Address of principal office of Financial Institution:

_____

C. Address of principal office where government securities broker or government securities dealer activities will be conducted (if different than item (B)):

_____

D. Mailing address if different from (B) or (C):

_____

E. Name, title and telephone number of contact person with respect to this notice:

_____
Name Title Telephone

4. Does Financial Institution conduct, or will it conduct, government securities broker or government securities dealer activities at any location other than given in Question 3 above? A. ☐ Yes B. ☐ No

(If yes, provide addresses and describe activities.)

_____

_____

_____

_____

_____

5. Furnish the name and title of each person who is directly engaged in the management, direction or supervision of any of the financial institution's government securities broker or government securities dealer activities:

Full Name

Last	First	Middle	Title
Last	First	Middle	Title
Last	First	Middle	Title
Last	First	Middle	Title
Last	First	Middle	Title

Note: Attach a separate Form G-FIN-4 (or, if previously filed, a copy of Form MSD-4 or Form U-4) for each person named in response to this Item 5.

6. Has any "associated person" (see definition in paragraph A.7. of the Instructions) responded "yes" to any question in Item 17 of Form G-FIN-4, or "yes" to one or more questions in Items 23 through 26 of Form MSD-4 or Item 22 on Form U-4?

A. ☐ Yes B. ☐ No

(If yes, attach a copy of Form G-FIN-4, Form MSD-4, or Form U-4 for all such persons with this Notice.)
Note: The financial institution and the person executing this form are responsible for making an inquiry of all other employers of any associated person during the immediately preceding three years for the purpose of verifying the accuracy of the information furnished on Form G-FIN-4. (See 17 C.F.R. 400.4(c)). Similar requirements are applicable to Form MSD-4 and Form U-4.

7. **The financial institution submitting this notice and the person executing it represent that all of the information contained herein is true, current and complete.**

Please print name and title of person executing this notice:

First	Middle	Last	Title

Manual Signature	Date

Form G-FINW

Notice By Financial Institutions of Termination of Activities as a Government Securities Broker or Government Securities Dealer

(This booklet includes instructions and blank forms)

Board of Governors of the Federal Reserve System

Federal Deposit Insurance Corporation

Office of the Comptroller of the Currency

Federal Home Loan Bank Board

Securities and Exchange Commission

General Instructions for Form G-FINW Termination of Activities as a Government Securities Broker or Government Securities Dealer

1. When to file

A financial institution that has filed a Notice of Government Securities Broker or Government Securities Dealer Activities pursuant to section 15C(a)(1)(B) of the Securities Exchange Act of 1934 must file this notice with its appropriate regulatory agency (ARA) when the financial institution ceases to act as a government securities broker or government securities dealer.

A notice to terminate activities as a Government Securities Broker or Government Securities Dealer shall become effective for all matters on the 60th day after filing this notice unless the financial institution is otherwise notified by its ARA.

2. How and where to file: Number of copies

Each financial institution must file two copies of the notice with its ARA, one of which will be sent by the ARA to the SEC. Both copies of this Notice filed with the ARA shall be executed with a manual signature in Item 5. The Notice shall be signed in the name of the financial institution by a principal officer who was directly engaged in the management, direction, or supervision of the financial institution's government securities broker or dealer activities.

Form G-FINW

FR G-FINW
OMB No. 7100-0224
Approval expires July, 1990

OFFICIAL USE

Notice by Financial Institutions of Termination of Activities as a Government Securities Broker or Government Securities Dealer

1. Appropriate regulatory agency (check one):

A. ☐ Comptroller of the Currency
B. ☐ Board of Governors of the Federal Reserve System
C. ☐ Federal Deposit Insurance Corporation
D. ☐ Federal Home Loan Bank Board
E. ☐ Securities and Exchange Commission

2. (a) Full name of the Financial Institution:

_____

(b) Address of principal office of Financial Institution:

_____

(c) Mailing address if different from (b):

_____

. Furnish the name and address of the person who has or will have custody or possession of the financial institution's books and records with respect to the financial institution's activities as a government securities broker or government securities dealer:

Full Name

_____
Last First Middle

_____
Address

4. Furnish the address of the place where such books and records will be located:

_____

_____

5. **The financial institution submitting this notice of termination of activities and the person executing it represent that all of the information contained herein is true, current and complete.**

Please print name and title of person executing this notice:

_____
First Middle Last Title

_____
Manual Signature Date

FORM G-FIN-4

Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer

OMB APPROVAL
OMB # 1505-0100
Expires: 4/30/88

1. Applicant Name _____ Last _____ First _____ Middle (If none, so specify)

2. Financial Institution Government Securities Broker or Dealer:

   A. Name _____

   B. Registration Number _____ ☐☐☐☐☐☐ _____

   C. Main Address _____

3. Office of Employment of Applicant _____

4. Date of Employment of Applicant _____ / _____ / _____ (MM DD YY)

5. To Be Filed With The Following (Indicate One):

   Board of Governors of the Federal Reserve System ..... ☐
   Comptroller of the Currency ..... ☐
   Federal Deposit Insurance Corporation ..... ☐
   Federal Home Loan Bank Board ..... ☐
   Securities and Exchange Commission ..... ☐

6. It is anticipated that the applicant will perform the following functions in the capacity indicated:

	Capacity: Supervisory	Capacity: Non-Supervisory
A. Underwriting, trading or sales of government securities:	☐	☐
B. Financial advisory or consultant services for issuers in connection with the issuance of government securities:	☐	☐
C. Research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in (A) and (B) above:	☐	☐
D. Activities other than those specifically mentioned which involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in (A) and (B) above:	☐	☐
E. Processing and clearance activities with respect to government securities:	☐	N/A
F. Maintenance of records involving activities described in (A) through (E) above:	☐	N/A

7. For the purpose of verifying the information furnished on this form by the applicant named in item 1 above, this institution has made inquiry of all employers of the applicant during the immediately preceding three years, as set forth below, concerning the accuracy and completeness of the information provided.

Employer	Name and Position of Person Contacted

Date	Print Name of Supervisor of Applicant	Signature of Supervisor of Applicant

PERSONAL HISTORY OF APPLICANT

8. _____ Last Name _____ First _____ Middle

9. ☐☐☐-☐☐-☐☐☐☐ Social Security Number (Completion is not mandatory)

10. _____ Resident Street Address

11. _____ City _____ State _____ Zip

12. _____ / _____ / _____ Date of Birth (MM DD YY)

13. _____ Place of Birth

14. Any other name ever used or by which known: _____

15. Employment History
    The following is a complete, consecutive statement of all my business connections for the past ten years starting with my current position:

Name of Employer, Complete Address and Type of Business	From Mo.	From Yr.	To Mo.	To Yr.	Position Held	Reason for Leaving	Full or Part Time

16. Residential History
The following is a complete, consecutive statement of all my residential addresses for the past five years starting with my current residential address:

Address (Street, City, State, Zip Code)	From Mo.	From Yr.	To Mo.	To Yr.

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS YES, ATTACH COMPLETE DETAILS

17. *DEFINITIONS*

- Investment or Investment-Related — Pertaining to securities, commodities, banking, insurance, or real estate (including, but not limited to acting as or being associated with a government securities broker or dealer, municipal securities dealer, broker-dealer, investment company, investment adviser, futures sponsor, bank, or savings and loan association).
- Involved — Doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

A. Have you, within the 10 years preceding the date of this filing, been convicted of or plead guilty or nolo contendere ("no contest") to:
(1) a felony or misdemeanor involving: investments or an investment-related business, fraud, false statements or omissions, wrongful taking of property, or bribery, forgery, counterfeiting or extortion? . . . . . Yes ☐ No ☐
(2) any other felony? . . . . . Yes ☐ No ☐

B. Has any court ever:
(1) enjoined you in connection with any investment-related activity? . . . . . Yes ☐ No ☐
(2) found that you were involved in a violation of investment-related statutes or regulations? . . . . . Yes ☐ No ☐

C. Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:
(1) found you to have made a false statement or omission? . . . . . Yes ☐ No ☐
(2) found you to have been involved in a violation of investment-related regulations or statutes? . . . . . Yes ☐ No ☐
(3) found you to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? . . . . . Yes ☐ No ☐
(4) entered an order denying, suspending or revoking your registration or disciplined you by restricting your activities? . . . . . Yes ☐ No ☐

D. Has any other federal regulatory agency or any state regulatory agency ever:
(1) found you to have made a false statement or omission or been dishonest, unfair or unethical? . . . . . Yes ☐ No ☐
(2) found you to have been involved in a violation of investment regulations or statutes? . . . . . Yes ☐ No ☐
(3) found you to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? . . . . . Yes ☐ No ☐
(4) entered an order against you in connection with investment-related activity? . . . . . Yes ☐ No ☐
(5) denied, suspended, or revoked your registration or license or otherwise prevented you from associating with an investment-related business, or disciplined you by restricting your activities? . . . . . Yes ☐ No ☐
(6) revoked or suspended your license as an attorney, accountant or federal contractor? . . . . . Yes ☐ No ☐

E. Has any self-regulatory organization or commodities exchange:
(1) found you to have made a false statement or omission? . . . . . Yes ☐ No ☐
(2) found you to have been involved in a violation of its rules? . . . . . Yes ☐ No ☐
(3) found you to have been the cause of an investment-related business having its authorization to do business denied, suspended, revoked or restricted? . . . . . Yes ☐ No ☐
(4) disciplined you by expelling or suspending you from membership, barring or suspending your association with its members, or restricting your activities? . . . . . Yes ☐ No ☐

F. Has any foreign government, court, regulatory agency, or exchange ever entered an order against you related to investments or fraud? . . . . . Yes ☐ No ☐

G. Are you now the subject of any complaint, investigation, or proceeding that could result in a "yes" answer to parts A-F of this item? . . . . . Yes ☐ No ☐

H. Have you been discharged or permitted to resign because you were accused of:

(1) violating investment-related statutes, regulations, rules, or industry standards of conduct? . . . . . Yes ☐ No ☐

(2) fraud or the wrongful taking of property? . . . . . Yes ☐ No ☐

(3) failure to supervise in connection with investment-related statutes, regulations, rules or industry standards of conduct? . . . . . Yes ☐ No ☐

Date_____ Signature of Applicant _____

FORM G-FIN-4 ACKNOWLEDGMENT

18. Applicant Name _____

19. Financial Institution Government Securities Broker or Dealer Name _____

20. Financial Institution Government Securities Broker or Dealer Address _____ Receipt Stamp

_____

21. Attention: _____

WHEN THE FORM G-FIN-4 IS RECEIVED BY THE APPROPRIATE REGULATORY AGENCY, THIS ACKNOWLEDGMENT WILL BE BE STAMPED TO SHOW RECEIPT AND RETURNED TO THE PERSON NAMED IN ITEM 21. THE STAMPED ACKNOWLEDGMENT SHOULD BE RETAINED TO SUBSTANTIATE FILING.

PRIVACY ACT NOTICE FOR FORM G-FIN-4
(To accompany Form G-FIN-4)

GENERAL

This information is provided in accordance with the Privacy Act of 1974, 5 USC 552a, to those applicants completing a Form G-FIN-4 (Disclosure Form for Persons Associated with a Financial Institution Government Securities Broker or Dealer) which is to be filed with the appropriate regulatory agency, as defined in section 3(a)(34)(G) of the Securities Exchange Act of 1934 (15 USC 78c(a)(34)(G)).

AUTHORITY

Section 15C(b)(1) of the Securities Exchange Act of 1934 (15 USC 78o-5(b)(1)).

PURPOSE

The appropriate regulatory agency will review the information reported on Form G-FIN-4 for the purpose of determining whether the applicant might be subject to disciplinary action pursuant to section 15C(c)(2) of the Securities Exchange Act of 1934 (15 USC 78o-5(c)(2)).

EFFECTS OF NONDISCLOSURE

Except for persons who have a current Form U-4 or Form MSD-4 on file with their financial institution, persons who are or seek to be associated with a financial institution government securities broker or dealer are required to disclose the information necessary to complete Form G-FIN-4, except that disclosure of Social Security numbers is voluntary. Failure to disclose the necessary information may make an applicant subject to limitations on his or her activities with the financial institution government securities broker or dealer.

ROUTINE USES

The Department of the Treasury and the appropriate regulatory agencies regard the information provided by each respondent on this form as confidential. However, the information reported on Form G-FIN-4 may be routinely used by the appropriate regulatory agency as follows:

1. To refer to the appropriate governmental authority, whether Federal, State, local, or foreign, or to the appropriate self-regulatory organization, such information as may indicate a violation or potential violation of law, regulation, or rule.

2. To refer to the appropriate court, magistrate or administrative law judge such information as may be relevant to proceedings before any such court or judicial officer.

3. To make use of such information as may aid in the resolution of any action or proceeding:
   a. In which the Federal securities, banking or commodities laws are at issue;
   b. In which the propriety of any disclosure of information reported on Form G-FIN-4 is at issue; or
   c. To which the appropriate regulatory agency or a past or present member of its staff is a party or otherwise involved in an official capacity.

4. To disclose to a Federal, State, local or foreign governmental authority or self-regulatory organization such information as may be necessary to obtain from such authority or organization additional information concerning the associated person.

5. To disclose such information as may be necessary to respond to a request from a Federal, State, local or foreign governmental authority or self-regulatory organization for information needed in connection with the issuance of a license, granting of a benefit, or similar action affecting the associated person.

6. To disclose such information as may be necessary to respond to any congressional inquiry made at the request of the associated person.

INSTRUCTIONS FOR COMPLETING AND FILING FORM G-FIN-4

GENERAL INSTRUCTIONS

1. As used in these instructions and Form G-FIN-4:
   a. The term financial institution government securities broker or dealer means a government securities broker or dealer that is a financial institution and that is not exempt from regulation as a government securities broker or dealer under Part 401 of Title 17, Code of Federal Regulations.
   b. The terms applicant and person associated with a financial institution government securities broker or dealer mean a person, other than a person whose functions are solely clerical or ministerial, who is directly engaged in any of the

written notice or otherwise complying with the broker-dealer provisions. However, an institution that relies on these exemptions is required to comply with regulations contained in Part 450 concerning custodial holdings of securities and, depending on the exemption claimed, may be required to comply with the hold-in-custody repurchase transaction rules in Section 403.5(d).

- Issuing or handling Savings Bond transactions (which is also the only exemption where a thrift institution does not have to comply with the custodial requirements discussed below);
- Submitting tenders for the account of customers for purchase on original issues of U.S. Treasury securities;
- Engaging in limited dealer activities, such as entering into repurchase or reverse repurchase agreements, or sales or purchases in a fiduciary capacity; or
- Engaging in limited brokerage activities: either effecting fewer than 500 government securities brokerage transactions per year, or effecting brokerage transactions only through another government securities broker or dealer on a fully disclosed basis where its employees perform only clerical, ministerial or order-taking functions.

Custodial Requirements:

The above exemptions apply only to the notification and related requirements. All thrift institutions are required to comply with the regulations concerning custodial holdings of government securities (Part 450) and hold-in-custody repurchase transactions (Section 403.5(d)). Those regulations are summarized in the attached release.

Further Information:

Copies of the GSA regulations and additional copies of any forms may be obtained from the Bureau of the Public Debt, Government Securities Regulations Staff, Room 209, 999 E Street, N.W., Washington, D.C. 20239-0001 or by calling (202) 376-4632. This office also handles requests for clarifications and interpretations of and exemptions from the regulations.

Darrel W. Dochow

— Darrel Dochow, Executive Director

Notice to Thrift Management:

Government Securities Act Requirements Applicable to All Financial Institutions

PURPOSE

This document provides general information concerning those portions of the regulations implementing the Government Securities Act (GSA)[1] that apply to all financial institutions, including those whose limited government securities activities may exempt them from filing a broker-dealer notice with their federal regulator. Specifically, certain provisions covered here apply (a) to all financial institutions that engage in repurchase transactions with customers while retaining custody or control of the subject government securities and (b) to all depository institutions that hold government securities for customers.

Not discussed here are additional provisions of the GSA regulations that apply to financial institutions that are required to file as government securities broker-dealers. Managers should review the exemptions for limited government securities activities to determine whether they are required to file as government securities broker-dealers and are therefore subject to other provisions of the regulations not covered here.

This document is intended to highlight certain provisions of the GSA regulations. We recommend that you familiarize yourself with the actual provisions of the regulation that pertain to your institution. To assist you with your review we have enclosed an edited text of the regulations that apply to all financial institutions.

DEFINITION

Government securities are defined at Section 3(a) (42) of the Securities Exchange Act of 1934 (see 15 USC 78 c (a) (42)). For purposes of the GSA regulations, government securities include U.S. Treasuries, as well as securities such as obligations of the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Student Loan Marketing Association (SLMA) and the Farm Credit System. "Off exchange" puts, calls, straddles and "similar privileges" on government securities are also considered to be government securities for all parts of the regulations except for Part 450, the rules addressing custodial holding of securities by depository institutions.

BACKGROUND

Activities Affected by the Government Securities Act Regulations

All financial institutions that engage in government securities activities are subject to the GSA regulations to some extent. To determine the extent of applicability, it is important to understand the exemptions provided in the regulations.

Partial Exemptions for Limited Government Securities Activities

The GSA regulations permit financial institutions that perform limited government securities activities to be exempt from some, but not all, of the regulations. (See Part 401 of the Regulations) For example, a financial institution that qualifies for the limited-activity exemptions described below is not required to give notice of being a government securities broker-dealer; however, an "exempt" institution is still subject to certain other GSA regulations outlined here.

A financial institution is considered partially exempt from the GSA regulations if its government securities activities are limited to one or more of the following:

(1) Handling savings bond transactions;

(2) Submitting original issue tenders for Treasury securities for customers, on a fully disclosed basis;

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1 17 CFR 400-405; 449 and 450, as amended August 1, 1988 (53 FR 28978).

(3) Doing limited brokering of government securities. This means either effecting fewer than 500 brokerage transactions per year or effecting all brokerage transactions on a fully disclosed network basis through a registered government securities broker-dealer, provided the networking arrangements meet conditions described in the regulations;

(4) Engaging in limited government securities dealer activities. This means that the dealer-type activity is limited to sales or purchases in a fiduciary capacity and to repurchase/reverse repurchase transactions.[2]

All depository institutions, including those that qualify for exemptions (2) and (4) above, are subject to the GSA regulations on custodial holdings of government securities. Additionally, all financial institutions engaging in hold-in-custody repurchase transactions, including those eligible for exemption (4) above, are required to comply with the GSA regulations governing hold-in-custody repurchase transactions. It is these two portions of the regulations that are summarized in this document.

HOLD- IN-CUSTODY REPURCHASE AGREEMENTS

All financial institutions that retain custody of securities sold under an agreement to repurchase must comply with the requirements for hold-in-custody repurchase agreements described in 17 CFR 403.5(d). For purposes of applying these requirements, the financial institution is also considered to retain custody of the repurchase agreement securities when the securities are maintained through an account at another institution (e.g., a correspondent bank, or the local Federal Reserve Bank) and the securities continue to be under the control of the financial institution.

All hold-in-custody repurchase transactions are required to be conducted pursuant to a written repurchase agreement (see 17 CFR 403.5(d)(1)(i)).[3] If the customer agrees to allow substitution of securities in a hold-in-custody repurchase transaction then authority for the financial institution to substitute securities must be contained in the written repurchase agreement (see 17 CFR 403.5(d)(1)(iv)). In all hold-in-custody repurchase agreements where the financial institution reserves the right to substitute securities, the following disclosure statement must be prominently displayed in the written repurchase agreement immediately preceding the provision allowing the right to substitution:

"REQUIRED DISCLOSURE

> The (seller) is not permitted to substitute other securities for those subject to this agreement and therefore must keep the (buyer's) securities segregated at all times, unless in this agreement the (buyer) grants the (seller) the right to substitute other securities. If the (buyer) grants the right to substitute, this means that the (buyer's) securities will likely be commingled with the (seller's) own securities during the trading day. The (buyer) is advised that, during any trading day that the (buyer's) securities are commingled with the (seller's) securities, they may be subject to liens granted by the (seller) to third parties and may be used by the (seller) for deliveries on other securities transactions. Whenever the securities are commingled, the (seller's) ability to resegregate substitute securities for the (buyer) will be subject to the (seller's) ability to satisfy any lien or to obtain substitute securities."

No editing or paraphrasing of the above language of the required disclosure statement is permitted under the regulations with the exception that other terms may be substituted for the bracketed terms "buyer" and "seller". If the disclosure statement is emphasized in any fashion that visually distinguishes it from other terms of the agreement, it will be acceptable for purposes of this section.

Also, a financial institution issuing a hold-in-custody repurchase agreement must disclose to the customer in writing that the funds held pursuant to the repurchase agreement are not a deposit, and, therefore, in

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2 The GSA regulations recognize that parties to a repurchase transaction may characterize and account for the transaction either as a sale and repurchase of securities or as a secured loan.

3 On August 1, 1988, an exception in this portion of the regulations that allowed for avoiding all or part of the requirements applicable to the hold-in-custody repurchase requirements was rescinded. Financial institutions that had been relying on that exemption are now required to comply with the written repurchase agreement requirements for transactions entered into on or after September 1, 1988, unless the transaction is with an existing customer. For transactions with existing customers, these financial institutions have until December 1, 1988, to fully comply with the written agreement requirements. (A customer is considered to be an existing customer if the financial institution has engaged in repurchase transactions with this customer on or after September 1, 1987 and before September 1, 1988.)

the case of a bank, not insured by the Federal Deposit Insurance Corporation; in the case of a savings and loan association, not insured by the Federal Savings and Loan Insurance Corporation; in the case of a credit union, not insured by the National Credit Union Share Insurance Fund (see 17 CFR 403.5(d)(1)(iii)).

The regulations do not require written agreements for repurchase transactions where the securities are delivered to the customer or to another depository acting pursuant to a tri-partite agreement with the financial institution and the customer. Refer to the Federal Financial Institutions Examination Council's (FFIEC) endorsed policy statement concerning repurchase agreements for general regulatory requirements for all repurchase agreements (U.S. League of Savings Institutions, Federal Guide, para. 11,757).

For all hold-in-custody repurchase transactions, written confirmations describing the specific securities subject to the transaction must be sent to the customer by close of business on the day the transaction is initiated, as well as on any day on which substitution of securities occurs (see 17 CFR 403.5(d)(1)(ii)).[4] The frequency or short duration of a particular type of transaction, such as an overnight repurchase agreement or a daily "sweep" of a customer's deposits into a hold-in-custody repurchase transaction does not eliminate the requirement for a financial institution to send a prompt and accurate confirmation to its customer. Confirmations must identify the specific securities by issuer, maturity, coupon, par amount, market value, CUSIP or mortgage pool number of the underlying securities (see 17 CFR 403.5(d)(2)(i)). Market value is defined as the most recently available bid price for the security, plus accrued interest.

Pooling of securities as collateral for repurchase agreements is no longer permitted. "Blind pooled" hold-in-custody repurchase transactions occur when a seller does not deliver securities and does not identify specific securities as belonging to a specific customer. Instead, the financial institution sets aside, or otherwise designates, a pool of securities to collateralize its outstanding repurchase obligations. The regulations require that the written confirmation sent to a customer must identify the specific securities that are the subject of the hold-in-custody repurchase transaction. A specific security identified to a customer must be in an authorized denomination, that is, in a deliverable par amount.

CUSTODIAL HOLDINGS OF GOVERNMENT SECURITIES

All depository institutions that hold or safekeep U.S. government securities for customers must comply with 17 CFR 450. These regulations apply where the depository institution holds the customers' securities directly or maintains the customers' securities through another institution.

Definitions

For purposes of Part 450, a customer is any party for whom the depository institution maintains U.S. government securities. This includes a counterparty to a hold-in-custody repurchase agreement. This definition does not cover a broker/dealer unless the broker/dealer notifies the depository that a security is in safekeeping for the broker/dealer's customers (see 17 CFR 450.2(b)).

Exemption for Holdings Subject to Fiduciary Standards

The Department of the Treasury determined that the rules and standards of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation governing the holding of government securities in a fiduciary capacity are adequate to meet the requirements of these regulations. Thus, depository institutions regulated by these agencies will be exempt from Part 450 requirements provided two conditions are met. The depository institution must adopt policies and procedures that subject the custodial holdings to all the requirements that the applicable banking regulatory agency imposes on holdings in a fiduciary capacity. Also, such custodial holdings must be subject to examination by the regulatory agency for compliance with these fiduciary requirements, see (17 CFR 450.3 (a)(1)&(2)).

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4 An exception to the repurchase transaction rules that allowed for avoiding all or part of the requirements applicable to the hold-in-custody repurchase requirements was rescinded on August 1, 1988. Financial institutions that were relying on that exception have until December 1, 1988 to comply with the timing requirements for confirmations. In the interim, however, such institutions must issue to their counterparties, at least monthly, confirmations of the specific securities that are the subject of their repurchase transactions conducted during the period.

Fiduciary capacities under Part 450 include trustee, executor, administrator, registrar, transfer agent, guardian, assignee, receiver, managing agent, and any other similar capacity involving the sole or shared exercise of discretion by a depository institution having fiduciary powers that is supervised by a federal or state financial institution regulatory agency (see 17 CFR 450.2(d)).

The fiduciary exemption is not currently available to depository institutions regulated by the Federal Home Loan Bank Board. Thus, until such time as that exemption becomes available, those institutions must comply with the custodial holding requirements contained in 17 CFR 450.

Custodial Holding Requirements

In order to comply with the requirements of Part 450, depository institutions must observe several requirements. All government securities held for customers, including those subject to repurchase agreements with customers, must be segregated from the depository's own assets and kept free from lien of any third party or the depository (see 17 CFR 450.4 (a)(1)). A depository institution that holds securities held for a customer through another institution ("custodian institution") must notify that custodian institution that such securities are customer securities (see 17 CFR 450.4 (a)(2)(i)(A)). The custodian institution must maintain the customer securities in an account that is designated for customers of the depository institution and that does not contain proprietary securities of the depository (see 17 CFR 450.4(a)(2)(i)(B)). Additionally, the depository institution must notify the custodian institution that these securities are to remain free of any lien, charge or claim in favor of the custodian or any persons attempting to make a claim through the custodian (see 17 CFR 450.4(a)(2)(i)(C)). In turn, the custodian institution, upon such instructions from the depository institution, is required to treat the securities as customer securities and maintain those securities in accordance with Section 450.4. When holding customer securities for the depository, the custodian institution does not have to keep records that identify individual customers of the depository (see 17 CFR 450.4(e)), unless, of course, the custodian institution is also acting directly on behalf of the customer, such as in a tri-party repurchase transaction.

Where a depository institution maintains customer securities in an account at a Federal Reserve Bank, it is deemed to be in compliance with the requirements to hold customer securities free of lien if any lien of the Federal Reserve Bank or other party claiming through it expressly excludes customer securities. The depository institution is not required to maintain customer securities in a separate custody account at the Federal Reserve Bank, although such segregation is encouraged. However, the depository institution must segregate the customers' securities on its own records.

A depository institution may lend customer securities held in safekeeping to third parties and remain in compliance with Part 450. However, the depository institution must satisfy the requirements of 17 CFR 450.4 (a)(6) which require the securities loan be made under a written agreement with the customer and at a minimum in compliance with regulatory agency guidelines for securities lending; refer to the FFIEC endorsed policy statement addressing securities lending.

A depository institution engaged in safekeeping U.S. government securities for customers is required to issue to the customer a confirmation or safekeeping receipt for each government security held. The confirmation or safekeeping receipt must identify the issuer, maturity date, par amount and coupon rate of the security being confirmed (see 17 CFR 450 (b)(1)).

Part 450 also requires that a records system of government securities held for customers be maintained separate and distinct from other records of the depository institution (see 17 CFR 450.4(c)). These records must (a) identify each customer and each government security held for a customer; (b) describe the customer's interest in the security (such as "subject of repurchase agreement" or "pledged to secure a public deposit"); and (c) indicate all receipts and deliveries of securities and cash in connection with the securities. A copy of the safekeeping receipt or confirmation given to customers also must be maintained. Finally, this system of records must provide an adequate basis for audit (see 17 CFR 450.4(c)(1-5)).

The required records under Part 450 must be maintained in an easily accessible place for at least two years and not disposed of for at least six years (see 17 CFR 450.4(f)).

A depository institution providing safekeeping for customers' government securities is required to conduct a count of physical securities and securities held in book-entry form at least annually. An annual rec-

oncilement with customer account records must also be performed (see 17 CFR 450.4(d)). In order to count securities held outside the depository, such as book entry securities held at a Federal Reserve Bank, the depository must reconcile its records to those of the outside custodian (see 17 CFR 450.4(d)(1)). The depository institution responsible for the count must verify any securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive or deliver or subject to a repurchase or reverse repurchase agreement, when the securities have been out of the depository's possession for longer than 30 days (see 17 CFR 450.4(d)(2)). The dates and results of the counts and reconcilements must be documented within seven days of the required count with the differences in securities counts noted (see 17 CFR 450.4(d)(3)).

FORM G-FIN-5

Uniform Termination Notice for Person Associated with a Financial Institution Government Securities Broker or Dealer

OMB APPROVAL	
OMB =	1505-0100
Expires:	4/30/88

1. Individual's Name _____
   Last First Middle (If none, so specify)
2. Capacity: _____
3. Social Security Number _____
4. Financial Institution Government Securities Broker or Dealer:
   a. Name _____
   B. Registration Number _____
   C. Main Address _____
5. Office of Employment Address _____
6. Date Terminated _____
7. Reason for Termination—Check One:

   Resigned* _____ ☐ Deceased _____ ☐

   Discharged* _____ ☐ Transfer* _____ ☐

   Other* _____ ☐

   *Furnish full details on attached sheet if related to a violation or probable violation of banking or securities law.
8. While associated, was the individual the subject of any investigation, proceeding, disqualification or disciplinary action by any governmental agency pursuant to Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5). **Yes ☐ No ☐

   **Furnish full details on attached sheet.

Date _____ Print Name of Supervisor of Individual _____ Signature of Supervisor of Individual _____

Person to Contact for Further Information _____

ACCEPTANCE OF THIS FORM FOR FILING SHALL NOT CONSTITUTE ANY FINDING THAT THE INFORMATION SUBMITTED HEREIN IS TRUE, CURRENT, COMPLETE, OR NOT MISLEADING. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT MAY CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001 and 1005, and 15 U.S.C. 78 ff.)

FORM G-FIN-5 ACKNOWLEDGMENT

Receipt Stamp

9. Name of Individual _____
10. Financial Institution Broker or Dealer Name _____
11. Financial Institution Broker or Dealer Address _____
12. Attention _____

WHEN THE FORM G-FIN-5 IS RECEIVED BY THE APPROPRIATE REGULATORY AGENCY, THIS ACKNOWLEDGMENT WILL BE STAMPED TO SHOW RECEIPT AND RETURNED TO THE PERSON NAMED IN ITEM 12. THE STAMPED ACKNOWLEDGMENT SHOULD BE RETAINED TO SUBSTANTIATE FILING.

INSTRUCTIONS FOR COMPLETING AND FILING FORM G-FIN-5

GENERAL INSTRUCTIONS

This report is required by Section 15C of the Securities Exchange Act of 1934 (15 USC 78o-5) and the regulations thereunder, 17 CFR 400.4. The Department of the Treasury and the appropriate regulatory agencies, as defined below, regard the information provided by each respondent as confidential.

1. As used in these instructions and Form G-FIN-5:

a. The term financial institution government securities broker or dealer means a government securities broker or dealer that is a financial institution and that has not been exempt from regulation as a government securities broker or dealer under Part 401 of Title 17, Code of Federal Regulations; and

b. The term person associated with a financial institution government securities broker or dealer means a person, other than a person whose functions are solely clerical or ministerial, who is engaged in any of the following activities in either a supervisory or non-supervisory capacity: (i) underwriting, trading or sales of government securities, (ii) financial advisory or consultant services for issuers in connection with the issuance of government securities; (iii) research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in clauses (i) and (ii); (iv) activities other than those specifically mentioned which involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in clauses (i) and (ii) above. The term also includes anyone engaged in the following activities in a supervisory capacity: (i) processing and clearance activities with respect to government securities and (ii) maintenance of records involving any of the activities described in this paragraph (b).

Persons who function solely in a fiduciary capacity and persons whose sole government securities activities are, without exercising any investment discretion and solely at the direction of customers, to receive and/or transmit customer orders to purchase or sell government securities, but who do not give investment advice or receive transaction-based compensation, are not "associated persons" and are not required to file this form. Directors and senior officers of the financial institution who may from time to time set broad policy guidelines affecting the financial institution as a whole that are not directly related to the conduct of the financial institution's government securities business are not considered to be "directly engaged" in the activities described in this paragraph and are not required to file this form.

2. Form G-FIN-5 is to be used by financial institution government securities brokers and dealers to report the termination of association of a person with the financial institution government securities broker or dealer as provided in the rules of the Department of the Treasury, 17 CFR 400.4.

This form should be used only when a form U-5 or MSD-5 has not been filed with respect to such person. Termination includes transfer of an individual to another position in the financial institution that does not involve the individual in the activities included in the definition of person associated with a financial institution government securities broker or dealer.

3. Financial institution government securities brokers and dealers are required to file Form G-FIN-5 with the appropriate regulatory agency as set forth below:

a. The Comptroller of the Currency in the case of a national bank, a bank in the District of Columbia examined by the Comptroller of the Currency, or a Federal branch or Federal agency of a foreign bank (as such terms are used in the International Banking Act of 1978);

b. The Board of Governors of the Federal Reserve System in the case of a State member bank of the Federal Reserve System, a foreign bank, a State branch or a State agency of a foreign bank, or a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978);

c. The Federal Deposit Insurance Corporation in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank);

d. The Federal Home Loan Bank Board, in the case of a Federal savings and loan association, Federal savings bank, a District of Columbia savings and loan association, or an institution insured by the Federal Savings and Loan Insurance Corporation; and

e. The Securities and Exchange Commission, in the case of all other financial institution government securities brokers and dealers.

4. Copies of Form G-FIN-5 may be obtained from any of the appropriate regulatory agencies listed in instruction 3.

5. An original and two copies of Form G-FIN-5 and any attachments are to be filed by the financial institution government securities broker or dealer with the appropriate regulatory agency listed in instruction 3 within 30 days after termination of the association of the individual named in item 1, except that (i) if the financial institution notifies the

appropriate regulatory agency that the individual will remain in the financial institution's employment and the financial institution continues to update information about such person as provided in 17 CFR 400.4(b), the Form G-FIN-5 need not be filed until within 30 days after the termination of the individual's employment with the financial institution, and (ii) if the financial institution is required to and has filed a Form U-5 or MSD-5 with respect to such person, the Form G-FIN-5 need not be filed. A financial institution government securities broker or dealer filing a Form G-FIN-5 shall retain an exact copy in its records for at least three years following its filing.

6. If more space is needed to complete an answer, an appropriate designation shall be entered in the answer space provided, and one or more attachment sheets shall be used to complete the response. All attachments shall be submitted in the same format as the items to which response is made and should be typed on white 8-1/2 by 11 inch paper. Answers to more than one question may appear on an attachment sheet if the questions are clearly identified. Attachments should be paginated and the name of both the applicant and the financial institution government securities broker or dealer should appear on every attachment sheet.

7. Form G-FIN-5 and any attachments may be duplicated by any method which produces legible copies of type size identical to that of the Form G-FIN-5 on white 8-1/2 by 11 inch paper.

8. Form G-FIN-5 shall be manually signed by the supervisor of the person named in item 1.

9. All items on Form G-FIN-5 are to be completed, except that disclosure of the individual's Social Security number is not required if that information is unavailable. The date on which the Form G-FIN-5 is received by the appropriate regulatory agency shall be the date of filing. A Form G-FIN-5 which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form G-FIN-5 has been completed in accordance with those requirements or that any information reported on the form is true, correct, complete, or not misleading.

following activities in either a supervisory or non-supervisory capacity: (i) underwriting, trading or sales of government securities, (ii) financial advisory or consultant services for issuers in connection with the issuance of government securities; (iii) research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in clauses (i) and (ii); (iv) activities other than those specifically mentioned which involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in clauses (i) and (ii) above. In addition, the term includes anyone directly engaged in the following activities in a supervisory capacity: (i) processing and clearance activities with respect to government securities and (ii) maintenance of records involving any of the activities described in this paragraph (b).

Persons who function solely in a fiduciary capacity and persons whose sole government securities activities are, without exercising any investment discretion and solely at the direction of customers, to receive and/or transmit customer orders to purchase or sell government securities, but who do not give investment advice or receive transaction-based compensation, are not "associated persons" and are not required to file this form. Directors and senior officers of the financial institution who may from time to time set broad policy guidelines affecting the financial institution as a whole that are not directly related to the conduct of the financial institution's government securities business are not considered to be "directly engaged" in the activities described in this paragraph and are not required to file this form.

2. Form G-FIN-4 is to be used by financial institution government securities brokers and dealers and persons who are or seek to be associated persons of such brokers or dealers to comply with the rules of the Department of the Treasury, 17 CFR 400.4, which require the filing and keeping current of the Form G-FIN-4. This form is required only when a current Form U-4 or MSD-4 for the applicant is not on file with the financial institution.

3. Financial institution government securities brokers and dealers are required to file Form G-FIN-4 with the appropriate regulatory agency as set forth below:

a. The Comptroller of the Currency in the case of a national bank, a bank in the District of Columbia examined by the Comptroller of the Currency, or a Federal branch or Federal agency of a foreign bank (as such terms are used in the International Banking Act of 1978);

b. The Board of Governors of the Federal Reserve System in the case of a State member bank of the Federal Reserve System, a foreign bank, a State branch or a State agency of a foreign bank, or a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978);

c. The Federal Deposit Insurance Corporation in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank);

d. The Federal Home Loan Bank Board, in the case of a Federal savings and loan association, Federal savings bank, a District of Columbia savings and loan association, or an institution insured by the Federal Savings and Loan Insurance Corporation; and

e. The Securities and Exchange Commission, in the case of all other financial institution government securities brokers and dealers.

4. Copies of Form G-FIN-4 may be obtained from any of the appropriate regulatory agencies listed in instruction 3.

5. An original and three copies of Form G-FIN-4 is to be filed by the applicant with the financial institution government securities broker or dealer, which will in turn file the original and two copies with the appropriate regulatory agency listed in instruction 3. The applicant is responsible for keeping the form current by filing, within 30 days after the occurrence of any event that makes the information in the currently filed form incomplete or incorrect, an original and three copies of a statement showing the changed information in a form acceptable to the appropriate regulatory agency. The financial institution government securities broker or dealer will retain the third copy of a complete form, including all updates, in its records for at least three years after the applicant's employment or other association with the government securities broker and/or dealer function of the financial institution has terminated, or after a Form G-FIN-5 has been filed, whichever is later.

6. If more space is needed to complete an answer, an appropriate designation shall be entered in the answer space provided, and one or more attachment sheets shall be used to complete the response. All attachments shall be submitted in the same format as the items to which response is made and should be typed on white 8-1/2 by 11 inch paper. Answers to more than one question may appear on an attachment sheet if

the questions are clearly identified. Attachments should be paginated and the name of both the applicant and the financial institution government securities broker or dealer should appear on every attachment sheet.

7. Form G-FIN-4 and any attachments may be duplicated by any method which produces legible copies of type size identical to that of the Form G-FIN-4 on white 8-1/2 by 11 inch paper.

8. Form G-FIN-4 shall be manually signed on page one by the supervisor of the applicant and on page three by the applicant.

9. All items on Form G-FIN-4 are to be completed, except that disclosure of one's Social Security number is not mandatory. The date on which the Form G-FIN-4 is received by the appropriate regulatory agency shall be the date of filing. A Form G-FIN-4 which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form G-FIN-4 has been completed in accordance with those requirements or that any information reported on the form is true, correct, complete, or not misleading.

INSTRUCTIONS TO SPECIFIC ITEMS ON FORM G-FIN-4

10. Items 2 through 7 are to be completed by the financial institution government securities broker or dealer employing or proposing to employ the applicant named in item 1. All other items are to be completed by the applicant.

11. Item 3: Give the address of the office of the financial institution government securities broker or dealer in which the applicant is or will be employed.

12. Item 5: Indicate the appropriate regulatory agency as set forth in instruction 3.

13. Items 15 and 16: All time periods must be accounted for.

14. Item 17(a): Although this item relates only to convictions during the past 10 years, it should be noted that section 19 of the Federal Deposit Insurance Act (12 USC 1829) prohibits <u>any</u> insured bank, except with the written consent of the Federal Deposit Insurance Corporation, from employing any person who has ever been convicted of a criminal offense involving dishonesty or breach of trust.

practicable, the information should be segregated from information for which confidential treatment is not requested and should be clearly marked as confidential.

(v) Information designated as confidential in accordance with paragraph (c)(3)(iv) of this section shall not be disclosed to a person requesting such information other than in accordance with the procedures outlined in the Department's regulations published at 31 CFR 1.6.

(vi) An original and two copies of each request letter shall be submitted to the Office of the Commissioner, Bureau of the Public Debt, Room 553, 999 E Street NW., Washington, DC 20239–0001. The envelope shall be marked "Government Securities Act Request." The letter shall indicate in the upper right hand corner of the first page the particular sections of the Act and of the regulations at issue.

(4) A written response by the Department to a request filed as stated in paragraph (c)(3) of this section shall be binding, with respect to the requester, on the Department, but shall cease to be binding if the facts are not as stated in the request or, prospectively, if the Department issues a superseding interpretation. In responding to such a request, the Department will, where appropriate, consult with and may obtain the formal concurrence of the appropriate regulatory agencies or their staffs. The Department understands that even if formal concurrence is not received the appropriate regulatory agencies and self-regulatory organizations will give appropriate deference to binding interpretations of the Department. The Department also expects the SEC staff to reflect such interpretations in responding, pursuant to the established procedures of the Commission, to no-action requests concerning rules the SEC enforces.

(5) The Department may decline to issue an interpretation for any reason and, in particular, may require that a requester make inquiry of its appropriate regulatory agency, the Commission or designated examining authority before the Department responds to a request.

(6) The Department will also provide informal oral and written advice, but such advice is not binding on the Department or on any other agency or organization.

(7)(i) Except as provided in paragraphs (c)(3)(iv) and (c)(7)(ii) of this section, every letter or other written communication requesting the Department to provide interpretive legal advice under the Act or to grant, deny or modify an exemption, classification or modification of the regulations, together with any written response thereto, shall be made available for inspection and copying as soon as practicable after the response has been sent or given to the person requesting it. These documents will be made available at the following location: Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

(ii) Any person submitting a letter or communication may also simultaneously submit a request that the letter or communication and the Department's response be accorded confidential treatment for a specified period of time not to exceed 120 days from the date the response has been made or given to such person. The request shall state the basis upon which the request for confidential treatment has been made. If the Department determines that the request for confidential treatment should be denied, the requester will be given 30 days to withdraw either the request for confidential treatment or the letter or communication requesting an interpretation, classification, or exemption.

Remaining text of this part not included in this excerpt.

PART 401—EXEMPTIONS

Sec.

401.1 Exemption for organizations handling transactions in United States Savings Bonds.
401.2 Exemption for depository institutions that submit tenders for the account of customers for purchase on original issue of United States Treasury securities.
401.3 Exemption for financial institutions that are engaged in limited government securities brokerage activities.
401.4 Exemption for financial institutions engaged in limited government securities dealer activities.
401.5 Exemption for corporate credit unions transacting limited government securities business with other credit unions.
401.6 Exemption for branches and agencies of foreign banks that deal solely with non-United States citizens resident offshore.
401.7 Temporary exemption for certain government securities brokers and dealers terminating business on or before October 31, 1987.
401.8 Temporary exemption for government securities brokers and dealers that are futures commission merchants registered with the CFTC.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5(a)(4)).

§ 401.1 Exemption for organizations handling transactions in United States Savings Bonds.

An organization that handles United States Savings Bond transactions, including a qualified issuing or paying agent or an organization that accommodates customers or employees by forwarding requested transactions to qualified issuing or paying agents or the Treasury and whose transactions in government securities are limited to these transactions and such other activities that are exempted by the regulations under this subchapter, shall be exempt from the provisions of section 15C (a), (b) and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter. For the purposes of this section, the term "United States Savings Bond" means any savings-type security offered by the Treasury, including all series of United States Savings Bonds, United States Savings Notes and United States Savings Stamps.

§ 401.2 Exemption for depository institutions that submit tenders for the account of customers for purchase on original issue of United States Treasury securities.

(a) Subject to the requirements of paragraph (b) of this section, a depository institution that submits tenders or subscriptions for purchase on original issue of United States Treasury securities for the account of customers on a fully disclosed basis, whose transactions in government securities are limited to such transactions and such other activities as have been exempted by regulation under this subchapter shall be exempt from the provisions of section 15C (a), (b) and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter.

(b) A depository institution that relies on the exemption contained in paragraph (a) of this section is required to comply with the regulations of Part 450 of this chapter concerning custodial holdings of government securities.

(c) For the purposes of this section, "depository institution" has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)–(vi)) and also includes a foreign bank, an agency or branch of a foreign bank and a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978, Pub. L. 95–369, 92 Stat. 607).

§ 401.3 Exemption for financial institutions that are engaged in limited government securities brokerage activities.

(a)(1) Subject to the requirements of paragraph (b) of this section, a financial institution shall be exempt from the provisions of sections 15C (a), (b), and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter, unless it acts as a government securities broker by:

(i) Holding itself out as a government securities broker or interdealer broker; or

(ii) Actively soliciting purchases or sales of government securities on an agency basis:

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, a financial institution shall not be regarded as acting as a government securities broker within the meaning of this section if it:

(i) Effects fewer than 500 government securities brokerage transactions (other than transactions described in §§ 401.1 or 401.2) per year; or

(ii) Effects all such transactions (other than transactions described in §§ 401.1 or 401.2) pursuant to a contractual or other arrangement with one or more government securities brokers or dealers each of which has registered or filed notice pursuant to section 15C(a)(1) of the Act (15 U.S.C. 78o–5(a)(1)) (each referred to as the "transacting government securities broker or dealer") under which the transacting government securities broker or dealer will offer securities services on or off the premises of the financial institution, provided that:

(A) The transacting government securities broker or dealer is clearly identified to customers as the person performing the securities services;

(B) Financial institution employees perform only clerical and ministerial or order-taking functions in connection with government securities transactions unless such employees are associated persons (as defined in § 400.3(c) of this chapter) or registered representatives of the transacting government securities broker or dealer;

(C) Financial institution employees do not receive compensation for government securities activities other than clerical or ministerial functions unless such employees are associated persons (as defined in § 400.3(c) of this chapter) or registered representatives of the transacting government securities broker or dealer; and

(D) Such services are provided on a fully disclosed basis by the transacting government securities broker or dealer, i.e., the transacting government securities broker or dealer receives and maintains all required information concerning each customer, its trading and account.

(b)(1) A financial institution that relies on the exemption contained in paragraph (a) of this section is required to comply with the regulations of part 450 of this chapter concerning custodial holdings of government securities for customers.

(2) A branch or agency of a foreign bank that relies on the exemption contained in paragraph (a) of this section is in addition required to comply with § 403.5(e) of this chapter.

(c) For the purposes of this section "financial institution" includes an insured credit union, as defined in 12 U.S.C. 1752(7).

§ 401.4 Exemption for financial institutions engaged in limited government securities dealer activities.

(a) Subject to the requirements of paragraph (b) of this section, a financial institution shall be exempt from the provisions of Sections 15C (a), (b), and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter if its government securities dealer activities are limited to one or more of the following activities:

(1) Sales or purchases in a fiduciary capacity;

(2) The sale and subsequent repurchase and the purchase and subsequent resale of government securities pursuant to a repurchase or reverse repurchase agreement; and

(3) Such other activities as have been exempted by regulation under this subchapter.

(b)(1) A financial institution that relies on the exemption contained in paragraph (a) of this section is required to comply with:

(i) The regulations of part 450 of this chapter concerning custodial holdings of government securities for customers; and

(ii) Section 403.5(d) of this chapter concerning certain repurchase transactions with customers.

(2) A branch or agency of a foreign bank that relies on the exemption contained in paragraph (a) of this section is in addition required to comply with § 403.5(e) of this chapter.

(c) For the purposes of this section "financial institution" includes an insured credit union, as defined in 12 U.S.C. 1752(7).

Remaining text of this part not included in this excerpt.

PART 402—FINANCIAL RESPONSIBILITY

Sec.

402.1 Application of part to registered brokers and dealers and financial institutions; special rules for futures commission merchants and government securities interdealer brokers; effective date.
402.2 Capital requirements for registered government securities brokers and dealers.
402.2a Appendix A—Calculation of market risk haircut for purposes of § 402.2(g)(2).
402.2b [Reserved]
402.2c Appendix C—Consolidated calculation of liquid capital and total haircuts for certain subsidiaries and affiliates.
402.2d Appendix D—Modification of § 240.15c3–1d of this title, relating to satisfactory subordination agreements, for purposes of § 402.2.

Text of this part not included in this excerpt.

PART 403—PROTECTION OF CUSTOMER SECURITIES AND BALANCES

Sec.

403.1 Application of part to registered brokers and dealers.
403.2 Hypothecation of customer securities.
403.3 Use of customers' free credit balances.
403.4 Customer protection—reserves and custody of securities.
403.5 Custody of securities held by financial institutions that are government securities brokers or dealers.
403.6 Compliance with part by futures commission merchants.
403.7 Effective dates.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5(b)(1)(A), (b)(2)).

Initial text of this part not included in this excerpt.

§ 403.5 Custody of securities held by financial institutions that are government securities brokers or dealers.

(d)(1) A financial institution that retains custody of securities that are the subject of a repurchase agreement between the financial institution and a counterparty shall:

(i) Obtain the repurchase agreement in writing;

(ii) Confirm in writing the specific securities that are the subject of a repurchase transaction pursuant to such agreement at the end of the day of initiation of the transaction and at the end of any other day during which other securities are substituted if the substitution results in a change to issuer, maturity date, par amount or coupon rate specified in the previous confirmation;

(iii) Advise the counterparty in the repurchase agreement that the funds held by the financial institution pursuant to a repurchase transaction are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable;

(iv) If the counterparty agrees to grant the financial institution the right to substitute securities, include in the written repurchase agreement the provision by which the financial institution retains the right to substitute securities;

ATTACHED IS AN EXCERPT OF THE GOVERNMENT SECURITIES ACT REGULATIONS THAT HAS BEEN PREPARED TO HIGHLIGHT THOSE PORTIONS OF THE REGULATIONS APPLICABLE TO **ALL** FINANCIAL INSTITUTIONS/DEPOSITORY INSTITUTIONS.

IT SHOULD BE NOTED THAT OTHER PORTIONS OF THE REGULATIONS NOT INCLUDED IN THIS EXCERPT ARE APPLICABLE TO SOME FINANCIAL INSTITUTIONS.

FOR THE COMPLETE REGULATIONS, SEE 17 CFR PARTS 400-405, 449, AND 450, AS AMENDED AUGUST 1, 1988 (53 FR 28978).

CHAPTER IV—DEPARTMENT OF THE TREASURY

SUBCHAPTER A—REGULATIONS UNDER SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

Part
400 Rules of General Application
401 Exemptions
402 Financial Responsibility
403 Protection of Customer Securities and Balances
404 Recordkeeping and Preservation of Records
405 Reports and Audit
449 Forms. Section 15C of the Securities Exchange Act of 1934

SUBCHAPTER B—REGULATIONS UNDER TITLE 11 OF THE GOVERNMENT SECURITIES ACT OF 1986

450 Custodial Holdings of Government Securities by Depository Institutions

SUBCHAPTER A—REGULATIONS UNDER SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

PART 400—RULES OF GENERAL APPLICATION

Sec.
400.1 Scope of regulations.
400.2 Office responsible for regulations; filing of requests for exemptions, for interpretations, and of other materials.
400.3 Definitions.
400.4 Information concerning associated persons of financial institutions that are government securities brokers or dealers.
400.5 Amendments to application for registration and to notice of status as a government securities broker or dealer.
400.6 Notice of withdrawal from business as a government securities broker or dealer by a financial institution.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5).

§ 400.1 Scope of regulations.

(a) Title I of the Government Securities Act of 1986 (Pub. L. 99–571, 100 Stat. 3208) amends the Securities Exchange Act of 1934 (48 Stat. 881–905; 15 U.S.C. chapter 2B) ("Act") by adding section 15C, authorizing the Secretary of the Treasury to promulgate regulations concerning the financial responsibility, protection of customer securities and balances, recordkeeping and reporting of brokers and dealers in government securities. Those regulations constitute subchapter A of this chapter. Unless otherwise explicitly provided, all regulations in this subchapter apply to all government securities brokers or dealers, including registered brokers or dealers and financial institutions.

(b) Section 15C(a)(1)(A) of the Act (15 U.S.C. 78o–5(a)(1)(A)) requires all government securities brokers and government securities dealers, except those who are brokers or dealers registered pursuant to section 15 or section 15B of the Act or financial institutions, to register with the Securities and Exchange Commission ("Commission"). Regulations concerning registration are at § 240.15Ca2–1 et seq. of this title. The Commission is responsible for the interpretation of the definitions of government securities broker and government securities dealer and of the regulations at § 240.15Ca2–1 et seq.

(c) Section 15C(a)(1)(B)(i) of the Act (15 U.S.C. 78o–5(a)(1)(B)(i)) requires all government securities brokers or dealers that are also registered brokers or dealers to notify the Commission of their status as government securities brokers or dealers. Regulations concerning notice are at § 240.15Ca1–1 of this title.

(d) Section 15C(a)(1)(B)(i) of the Act also requires all government securities brokers or dealers that are financial institutions to notify the appropriate regulatory agency, as defined in section 3(a)(34)(G) of the Act (15 U.S.C. 78c(a)(34)(G)), of their status as government securities brokers or dealers. The form of notice, Form G–FIN, is at § 449.1 of this chapter. Forms are available from the appropriate regulatory agency.

§ 400.2 Office responsible for regulations; filing of requests for exemptions, for interpretations and of other materials.

(a) *Office responsible.* The regulations in this chapter are promulgated by the Assistant Secretary (Domestic Finance) pursuant to a delegation of authority from the Secretary of the Treasury. The office responsible for implementation of the regulations, including interpretations and action on requests for exemption, classification or modification, is the Office of the Commissioner, Bureau of the Public Debt.

(b)(1) *Exemptions and classifications.* Section 15C(a)(4) of the Act (15 U.S.C. 78o–5(a)(4)) authorizes the Secretary to exempt any government securities broker or dealer or class thereof, conditionally or unconditionally, from the requirements of registration or regulations promulgated under section 15C. In addition, section 15C(b)(3) of the Act (15 U.S.C. 78o–5(b)(3)) provides for classification, by the Secretary, of government securities brokers or dealers and authorizes the whole or partial exemption of classes from rules under section 15C or the application of different standards to different classes.

(2) *Interpretations.* Although the appropriate regulatory agencies, as defined in § 400.3, and the self-regulatory organizations, as defined in section 3(a)(26) of the Act (15 U.S.C. 78c(a)(26)), have enforcement responsibility under section 15C of the Act, Treasury is responsible for interpretation of section 15C(b) of the Act (15 U.S.C. 78o–5(b)) and related sections and for interpretation and amendment of the regulations under th chapter (with the exception of Forms G FIN and G–FINW, §§ 449.1 and 449.2 o this chapter, which are the responsibility of the Board of Governo of the Federal Reserve System ["Board"]).

(c) *Requests for interpretations, exemptions, classifications.* (1) Interpretations under this chapter may be provided, at the discretion of th Department, to firms or individuals actually or potentially affected by the Act or regulations, or to their representatives.

(2) Exemptions and classifications under sections 15C (a), (b) and (d) of t Act (15 U.S.C. 78o–5 (a), (b), and (d)) a related sections and Treasury regulations thereunder may be provid at the discretion of the Department an after consultation with the SEC and th Board, to firms or individuals actually potentially affected by the Act or regulations, or to their representatives

(3) All requests for exemptions and classifications, and all requests for binding interpretations, shall be in writing, and shall conform to the following procedures.

(i) The names of the compan companies and all other person involved shall be stated. Letters pertaining to unnamed companies or persons or hypothetical situations wil not be answered.

(ii) The letter must contain a concis but complete statement of all materia facts, a complete and accurate description of the entire transaction i the request is transactional (even tho a request may apply to only a portion a transaction), and a concise and unambiguous statement of the reques including precise statutory and regulatory citations.

(iii) The letter shall indicate why th writer believes a problem exists or interpretation is needed, the writer's opinion on the matter, and the basis f such opinion.

(iv) In addition to requests for confidential treatment under paragraph (c)(7)(ii) of this section, a person may request confidential treatment of information that is submitted as part of or in support of, a request for interpretation, exemption, or classification. A separate request for confidential treatment and the basis fo such request shall be submitted at the time the information for which confidential treatment is requested is submitted. The request for confi al treatment must specifically ident e information for which such confidential treatment is requested. To the extent

(v) If the counterparty agrees to grant the financial institution the right to substitute securities, include in the written repurchase agreement the following disclosure statement, which must be prominently displayed in the written repurchase agreement immediately preceding the provision governing the right to substitution:

"Required Disclosure

The [seller] is not permitted to substitute other securities for those subject to this agreement and therefore must keep the [buyer's] securities segregated at all times, unless in this agreement the [buyer] grants the [seller] the right to substitute other securities. If the [buyer] grants the right to substitute, this means that the [buyer's] securities will likely be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they may be subject to liens granted by the [seller] to third parties and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to resegregate substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy any lien or to obtain substitute securities."; and

(vi) Maintain possession or control of securities that are the subject of the agreement in accordance with § 450.4(a) of this chapter, except when exercising its right of substitution in accordance with the provisions of the agreement and paragraph (d)(1)(iv) of this section.

(2)(i) A confirmation issued in accordance with paragraph (d)(1)(ii) of this section shall specify the issuer, maturity date, coupon rate, par amount and market value of the security and shall further identify a CUSIP or mortgage-backed security pool number, as appropriate, except that a CUSIP or a pool number is not required on the confirmation if it is identified in internal records of the broker or dealer that designate the specific security of the counterparty. For purposes of this paragraph (d)(2), the market value of any security that is the subject of the repurchase transaction shall be the most recently available bid price plus accrued interest, obtained by any reasonable and consistent methodology.

(ii) A person that is a non-U.S. citizen residing outside of the United States or a foreign corporation, partnership, or trust may waive, but only in writing, the right to receive the confirmation required by paragraph (d)(1)(ii) of this section.

(3) This paragraph (d) shall not apply to a repurchase agreement between the financial institution and a broker or dealer (including a government securities broker or dealer), a registered municipal securities dealer, or a director or principal officer of the financial institution or any person to the extent that his claim is explicitly subordinated to the claims of creditors of the financial institution.

Remaining text of this part not included in this excerpt.

PART 404—RECORDKEEPING AND PRESERVATION OF RECORDS

Sec.

404.1 Application of part to registered brokers and dealers.

Sec.

404.2 Records to be made and kept current by registered government securities brokers and dealers; records of non-resident registered government securities brokers and dealers.

404.3 Records to be preserved by registered government securities brokers and dealers.

404.4 Records to be made and preserved by government securities brokers and dealers that are financial institutions.

404.5 Securities counts by registered government securities brokers and dealers.

Text of this part not included in this excerpt.

PART 405—REPORTS AND AUDIT

Sec.

405.1 Application of part to registered brokers and dealers and to financial institutions; transition rule.

405.2 Reports to be made by registered government securities brokers and dealers.

405.3 Supplemental current financial and operational reports to be made by certain registered government securities brokers and dealers.

405.4 Financial recordkeeping and reporting of currency and foreign transactions by registered government securities brokers and dealers.

Text of this part not included in this excerpt.

PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

Sec.

449.1 Form G–FIN, notification by financial institutions of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934.

449.2 Form G–FINW, notification by financial institutions of cessation of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.6 of this chapter.

449.3 Form G–FIN–4, notification by persons associated with financial institutions that are government securities brokers and dealers pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.

449.4 Form G–FIN–5, notification of termination of association with a financial institution that is a government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.

449.5 Form G–405, information required of registered government securities brokers and dealers pursuant to section 15C of the Securities Exchange Act of 1934 and §§ 405.2 and 405.3 of this chapter.

Text of this part not included in this excerpt.

Subchapter B—Regulations Under Title II of the Government Securities Act of 1986

PART 450—CUSTODIAL HOLDINGS OF GOVERNMENT SECURITIES BY DEPOSITORY INSTITUTIONS

Sec.

450.1 Scope of regulations; office responsible.

450.2 Definitions.

450.3 Exemption for holdings subject to fiduciary standards.

450.4 Custodial holdings of government securities.

450.5 Effective date.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3208 (15 U.S.C. 78o–5(b)(1)(A), (b)(2), (b)(3)(B)); Sec. 201, Pub. L. 99–571, 100 Stat. 3222–23 (31 U.S.C. 3121, 9110).

§ 450.1 Scope of regulations; office responsible.

(a) This part applies to depository institutions that hold government securities as fiduciary, custodian, or otherwise for the account of a customer, and that are not government securities brokers or dealers, as defined in sections 3(a)(43) and 3(a)(44) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(43)–(44)). Depository institutions exempt under Part 401 of this chapter from the requirements of Subchapter A of this chapter must comply with this part. Certain depository institutions that are government securities brokers or dealers must also comply with this part, as well as with additional requirements set forth in § 403.5.

(b) The regulations in this subchapter are promulgated by the Assistant Secretary (Domestic Finance) pursuant to a delegation of authority from the Secretary of the Treasury. The office responsible for the regulations is the Office of the Commissioner, Bureau of the Public Debt. Procedures for obtaining interpretations of the regulations are set forth at § 400.2.

§ 450.2 Definitions.

For purposes of this subchapter:

(a) "Appropriate regulatory agency"

has the meaning set out in section 3(a)(34)(G) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(G)), except that the appropriate regulatory agency for—

(1) An institution insured by the Federal Savings and Loan Insurance Corporation is the Federal Home Loan Bank Board;

(2) A federal credit union as defined in 12 U.S.C. 1752(1) and an insured credit union as defined in 12 U.S.C. 1752(7) is the National Credit Union Administration; and

(3) Any depository institution for whom an appropriate regulatory agency is not explicitly specified by either section 3(a)(34)(G) or this paragraph, is the SEC;

(b) "Customer" includes, but is not limited to, the counterparty to a transaction pursuant to a repurchase agreement for whom the depository institution retains possession of the security sold subject to repurchase, but does not include a broker or dealer that is registered pursuant to section 15, 15B or 15C(a)(1)(A) of the Act (15 U.S.C. 78o, 78o–4, 78o–5(a)(1)(A)) or that has filed notice of its status as a government securities broker or dealer pursuant to section 15C(a)(1)(B) of the Act (15 U.S.C. 78o–5(a)(1)(B)) except as provided in § 450.4.

(c) "Depository institution" has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A) (i)–(vi)) and also includes a foreign bank, an agency or branch of a foreign bank and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978, Pub. L. 95–369, 92 Stat. 607);

(d) "Fiduciary capacity" includes trustee, executor, administrator, registrar, transfer agent, guardian, assignee, receiver, managing agent, and any other similar capacity involving the sole or shared exercise of discretion by a depository institution having fiduciary powers that is supervised by a federal or state financial institution regulatory agency; and

(e) "Government securities" means those obligations described in subparagraphs (A), (B), or (C) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C)).

§ 450.3 Exemption for holdings subject to fiduciary standards.

(a) The Secretary has determined that the rules and standards of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation governing the holding of government securities in a fiduciary capacity by depository institutions subject thereto are adequate. Accordingly, such depository institutions are exempt from this part with respect to their holdings of government securities in a fiduciary capacity and their holdings of government securities in a custodial capacity provided that (1) such institution has adopted policies and procedures that would apply to such custodial holdings all the requirements imposed by its appropriate regulatory agency that are applicable to government securities held in a fiduciary capacity, and (2) such custodial holdings are subject to examination by the appropriate regulatory agency for compliance with such fiduciary requirements.

(b) The Secretary expects that each appropriate regulatory agency will notify the Department if it materially revises its rules and standards governing the holding of government securities in a fiduciary capacity.

§ 450.4 Custodial holdings of government securities.

Depository institutions that are subject to this Part shall observe the following requirements with respect to their holdings of government securities for customer accounts:

(a)(1) Except as otherwise provided in this section, a depository institution shall maintain possession or control of all government securities held for the account of customers by segregating such securities from the assets of the depository institution and keeping them free of any lien, charge or claim of any third party granted or created by such depository institution.

(2)(i) Where customer securities are maintained by a depository institution at another depository institution, including but not limited to a correspondent bank or a trust company ("custodian institution"), the depository institution shall be in compliance with paragraph (a)(1) of this section if:

(A) The depository institution notifies the custodian institution that such securities are customer securities;

(B) The custodian institution maintains such securities in an account that is designated for customers of the depository institution and that does not contain proprietary securities of the depository institution; and

(C) The depository institution instructs the custodian institution to maintain such securities free of any lien, charge, or claim of any kind in favor of such custodian institution or any persons claiming through it.

(ii) To the extent that a custodian institution holds securities that have been identified as customer securities by a depository institution in accordance with paragraph (a)(2)(i) of this section, the custodian institution shall treat such securities as customer securities separate from any other securities held for the account of the depository institution.

(3)(i) Where securities that a depository institution is required, pursuant to this Part 450, to keep free of all liens, charges, or other claims ("customer securities") are maintained by a depository institution at a Federal Reserve Bank, the depository institution shall be in compliance with paragraph (a)(1) of this section if any lien, charge or other claim of such Federal Reserve Bank or any person claiming through it against securities of the depository institution expressly excludes customer securities.

(ii) Notwithstanding paragraph (a)(3)(i) of this section, a depository institution described in that paragraph shall be in compliance with paragraph (a)(1) of this section if a Federal Reserve Bank retains a lien on securities received during the day that are subsequently determined to be customer securities, *provided that*,

(A) On that day, the depository institution:

(*1*) Because of extraordinary circumstances, at the end of that day either requests a discount window advance or is unable to eliminate an overdraft with its Federal Reserve Bank and the Federal Reserve Bank extends credit to the depository institution in order to assure the safety and soundness or liquidity of the depository institution; and

(*2*) After reasonable efforts, is unable to provide the Federal Reserve Bank with an adequate security interest in other collateral that is clearly identifiable as pledgeable by the depository institution sufficient to fully collateralize such extension of credit; and

(B) The depository institution diligently pursues with the Federal Reserve Bank the substitution of other collateral for securities determined to be customer securities; and

(C) The Federal Reserve Bank agrees that to the extent the lien extends to collateral of a value greater than the outstanding balance on the loan, customer securities will be the first collateral released from the lien.

(4)(i) To the extent that a depository institution holds securities that have been identified to such depository institution as customer securities by a government securities broker or dealer,

or that the government securities broker or dealer has instructed the depository institution to place in a segregated account, in accordance with Part 403 of subchapter A of this chapter, the depository institution shall treat such securities as customer securities separate from any other securities held for the account of the government securities broker or dealer and shall comply with all of the provisions of this section with respect to such customer securities, except as provided in paragraph (a)(4)(ii) of this section.

(ii) A clearing bank that provides clearing services for a government securities broker or dealer and that maintains a segregated account as described in § 403.4 of this chapter shall not be required to transfer securities to such account upon the instruction of the broker or dealer for whom such account is maintained if the clearing bank determines that such securities continue to be required as collateral for an extension of clearing credit to such dealer. Whenever a clearing bank does not segregate securities as of the close of business upon the instruction of such broker or dealer, it shall send a notification to the appropriate regulatory agency of the broker or dealer for whom such account is maintained. Such securities shall thereafter be segregated pursuant to the instruction of the broker or dealer as soon as they are no longer required by the clearing bank as collateral for the extension of clearing credit.

(5) A depository institution that is subject to Part 403 is not required to maintain possession or control of margin securities as that term is defined in § 403.5(f)(1).

(6) Notwithstanding the requirement of paragraph (a)(1) to maintain possession or control of customer securities, a depository institution may lend such securities to a third party pursuant to the written agreement of the customer, if such loan of securities is carried out in full compliance with supervisory guidelines of its appropriate regulatory agency that expressly govern securities lending practices.

(b)(1) Except as otherwise provided in paragraph (b)(2) of this section, a depository institution shall issue a confirmation or a safekeeping receipt for each security held for a customer in accordance with this section with the exception of securities that are the subject of repurchase transactions which are subject to the requirements of § 403.5(d) of this chapter. The confirmation or safekeeping receipt shall identify the issuer, maturity date, par amount and coupon rate of the security being confirmed. The confirmation may be supplied to the customer in any manner that complies with applicable federal banking regulations.

(2) A depository institution shall not be required to send the confirmation or safekeeping receipt required by paragraph (b)(1) of this section to a customer that is a non-U.S. citizen residing outside the United States or a foreign corporation, partnership, or trust, if such customer expressly waives in writing the right to receive such confirmation or safekeeping receipt.

(c) Records of government securities held for customers shall be maintained and shall be kept separate and distinct from other records of the depository institution. Such records shall:

(1) Provide a system for identifying each customer, and each government security (or the amount of each issue of a government security issued in book-entry form) held for the customer;

(2) Describe the customer's interest in the government security;

(3) Indicate all receipts and deliveries of government securities and all receipts and disbursements of cash by the depository institution in connection with such securities;

(4) Include a copy of the safekeeping receipt or a confirmation issued for each government security held; and

(5) Provide an adequate basis for audit of such information.

(d) Counts of government securities held for customers in both definitive and book-entry form shall be conducted at least annually and such counts shall be reconciled with customer account records.

(1) Counts of book-entry securities and of definitive securities held outside the possession of the depository institution shall be made by reconciliation of the records of the depository institution with those of any depository, depository institution, or Federal Reserve Bank on whose books the depository institution has securities accounts.

(2) The depository institution conducting the count shall also verify any such securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive, failed to deliver, subject to repurchase or reverse repurchase agreements or otherwise subject to the depository institution's control or direction that are not in its physical possession, where the securities have been in such status for longer than thirty days.

(3) The dates and results of such counts and reconciliations shall be documented with differences noted in a security count difference account not later than seven business days after the date of each required count and verification as provided in this paragraph (d).

(e) For purposes of this section, a depository institution shall treat a government securities broker or dealer as a customer with respect to securities maintained by such government securities broker or dealer in a Segregated Account as defined in § 403.4(f)(1) of this chapter and with respect to securities otherwise identified to the depository institution as customer securities for purposes of maintaining possession or control of such securities as required by Part 403 of this chapter. The recordkeeping requirements of paragraph (c) of this section require the depository institution to treat such securities as customer securities separate from any other securities held for the account of the government securities broker or dealer, but do not require the depository institution to keep records identifying individual customers of the government securities broker or dealer.

(f) The records required by paragraphs (c) and (d)(3) of this section shall be preserved for not less than six years, the first two years in an easily accessible place.