

**Subpart B—Content and Timing of Notice**

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**§ 151.10 What does this part do?**

This part establishes recordkeeping and confirmation requirements that apply when a Federal savings association (“you”) effects certain securities transactions for customers.

**§ 151.20 Must I comply with this part?**

(a) *General.* Except as provided under paragraph (b) of this section, you must comply with this part when:

- (1) You effect a securities transaction for a customer.
- (2) You effect a transaction in government securities.
- (3) You effect a transaction in municipal securities and are not registered as a municipal securities dealer with the SEC.
- (4) You effect a securities transaction as fiduciary. You also must comply with 12 CFR part 150 when you effect such a transaction.

(b) *Exceptions*—(1) *Small number of transactions.* You are not required to comply with §151.50(b) through (d) (recordkeeping) and §151.140(a) through (c) (policies and procedures), if you ef-

fecting an average of fewer than 500 securities transactions per year for customers over the three prior calendar years. You may exclude transactions in government securities when you calculate this average.

(2) *Government securities.* If you effect fewer than 500 government securities brokerage transactions per year, you are not required to comply with §151.50 (recordkeeping) for those transactions. This exception does not apply to government securities dealer transactions. See 17 CFR 404.4(a).

(3) *Municipal securities.* If you are registered with the SEC as a “municipal securities dealer,” as defined in 15 U.S.C. 78c(a)(30) (see 15 U.S.C. 78o-4), you are not required to comply with this part when you conduct municipal securities transactions.

(4) *Foreign branches.* You are not required to comply with this part when you conduct a transaction at your foreign branch.

(5) *Transactions by registered broker-dealers.* You are not required to comply with this part for securities transactions effected by a registered broker-dealer, if the registered broker-dealer directly provides the customer with a confirmation. These transactions include a transaction effected by your employee who also acts as an employee of a registered broker-dealer (“dual employee”).

**§ 151.30 What requirements apply to all transactions?**

You must effect all transactions, including transactions excepted under §151.20, in a safe and sound manner. You must maintain effective systems of records and controls regarding your customers’ securities transactions. These systems must clearly and accurately reflect all appropriate information and provide an adequate basis for an audit.

**§ 151.40 What definitions apply to this part?**

*Asset-backed security* means a security that is primarily serviced by the cash flows of a discrete pool of receivables or other financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period. *Asset-backed security* includes any

rights or other assets designed to ensure the servicing or timely distribution of proceeds to the security holders.

*Common or collective investment fund* means any fund established under 12 CFR 150.260(b) or 12 CFR 9.18.

*Completion of the transaction* means:

(1) If the customer purchases a security through or from you, except as provided in paragraph (2) of this definition, the time the customer pays you any part of the purchase price. If payment is made by a bookkeeping entry, the time you make the bookkeeping entry for any part of the purchase price.

(2) If the customer purchases a security through or from you and pays for the security before you request payment or notify the customer that payment is due, the time you deliver the security to or into the account of the customer.

(3) If the customer sells a security through or to you, except as provided in paragraph (4) of this definition, the time the customer delivers the security to you. If you have custody of the security at the time of sale, the time you transfer the security from the customer's account.

(4) If the customer sells a security through or to you and delivers the security to you before you request delivery or notify the customer that delivery is due, the time you pay the customer or pay into the customer's account.

*Customer* means a person or account, including an agency, trust, estate, guardianship, or other fiduciary account for which you effect a securities transaction. *Customer* does not include a broker or dealer, or you when you: act as a broker or dealer; act as a fiduciary with investment discretion over an account; are a trustee that acts as the shareholder of record for the purchase or sale of securities; or are the issuer of securities that are the subject of the transaction.

*Debt security* means any security, such as a bond, debenture, note, or any other similar instrument that evidences a liability of the issuer (including any security of this type that is convertible into stock or a similar security). *Debt security* also includes a

fractional or participation interest in these debt securities. *Debt security* does not include securities issued by an investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a–1, *et seq.*

*Government security* means:

(1) A security that is a direct obligation of, or an obligation that is guaranteed as to principal and interest by, the United States;

(2) A security that is issued or guaranteed by a corporation in which the United States has a direct or indirect interest if the Secretary of the Treasury has designated the security for exemption as necessary or appropriate in the public interest or for the protection of investors;

(3) A security issued or guaranteed as to principal and interest by a corporation if a statute specifically designates, by name, the corporation's securities as exempt securities within the meaning of the laws administered by the SEC; or

(4) Any put, call, straddle, option, or privilege on a government security described in this definition, other than a put, call, straddle, option, or privilege:

(i) That is traded on one or more national securities exchanges; or

(ii) For which quotations are disseminated through an automated quotation system operated by a registered securities association.

*Investment discretion* means the same as under 12 CFR 150.40(a).

*Investment company plan* means any plan under which:

(1) A customer purchases securities issued by an open-end investment company or unit investment trust registered under the Investment Company Act of 1940, making the payments directly to, or made payable to, the registered investment company, or the principal underwriter, custodian, trustee, or other designated agent of the registered investment company; or

(2) A customer sells securities issued by an open-end investment company or unit investment trust registered under the Investment Company Act of 1940 under:

(i) An individual retirement or individual pension plan qualified under the Internal Revenue Code; or

(ii) A contractual or systematic agreement under which the customer purchases at the applicable public offering price, or redeems at the applicable redemption price, securities in specified amounts (calculated in security units or dollars) at specified time intervals, and stating the commissions or charges (or the means of calculating them) that the customer will pay in connection with the purchase.

*Municipal security* means:

(1) A security that is a direct obligation of, or an obligation guaranteed as to principal or interest by, a state or any political subdivision, or any agency or instrumentality of a state or any political subdivision.

(2) A security that is a direct obligation of, or an obligation guaranteed as to principal or interest by, any municipal corporate instrumentality of one or more states; or

(3) A security that is an industrial development bond, the interest on which is excludable from gross income under section 103(a) of the Code (26 U.S.C. 103(a)).

*Periodic plan* means a written document that authorizes you to act as agent to purchase or sell for a customer a specific security or securities (other than securities issued by an open end investment company or unit investment trust registered under the Investment Company Act of 1940). The written document must authorize you to purchase or sell in specific amounts (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals, and must set forth the commission or charges to be paid by the customer or the manner of calculating them.

*SEC* means the Securities and Exchange Commission.

*Security* means any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, and any put, call, straddle, option, or privilege on any security or group or index of securities (including any interest therein or based on the value thereof),

or, in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

*Security* does not include currency; any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of less than nine months, exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited; a deposit or share account in a Federal or state chartered depository institution; a loan participation; a letter of credit or other form of bank indebtedness incurred in the ordinary course of business; units of a collective investment fund; interests in a variable amount (master) note of a borrower of prime credit; U.S. Savings Bonds; or any other instrument the OCC determines does not constitute a security for purposes of this part.

*Sweep account* means any prearranged, automatic transfer or sweep of funds above a certain dollar level from a deposit account to purchase a security or securities, or any prearranged, automatic redemption or sale of a security or securities when a deposit account drops below a certain level with the proceeds being transferred into a deposit account.

### Subpart A—Recordkeeping Requirements

#### § 151.50 What records must I maintain for securities transactions?

If you effect securities transactions for customers, you must maintain all of the following records for at least three years:

(a) *Chronological records.* You must maintain an itemized daily record of each purchase and sale of securities in chronological order, including:

- (1) The account or customer name for which you effected each transaction;
- (2) The name and amount of the securities;
- (3) The unit and aggregate purchase or sale price;
- (4) The trade date; and
- (5) The name or other designation of the registered broker-dealer or other