

Federal Housing Finance Agency

§ 9001.105

(1) A partnership in which the employee or employee's spouse or minor children are general partners;

(2) A partnership in which the employee or employee's spouse or minor children individually or jointly hold more than a 10 percent limited partnership interest;

(3) A closely held corporation in which the employee or employee's spouse or minor children individually or jointly hold more than a 10 percent equity interest;

(4) A trust in which the employee or employee's spouse or minor children have a legal or beneficial interest;

(5) An investment club or similar informal investment arrangement between the employee or employee's spouse or minor children and others; or

(6) Any other entity in which the employee or employee's spouse or minor children individually or jointly hold more than a 10 percent equity interest.

(c) *Exceptions to prohibition for certain interests.* Notwithstanding paragraphs (a) and (b) of this section, an employee or an employee's spouse or minor children may directly or indirectly own or control:

(1) A security for which a waiver has been granted pursuant to § 9001.103; and

(2) An interest in a publicly-traded or publicly-available diversified mutual fund or other collective diversified investment fund, including a widely-held pension or other retirement fund if:

(i) Neither the employee, the employee's spouse, nor the employee's minor children exercise or have the ability to exercise control over the financial interests held by the fund; and

(ii) The fund does not indicate in its prospectus the objective or practice of concentrating its investments in securities of a regulated entity or regulated entities generally, and less than 25 percent of the total holdings of the fund are comprised of securities owned, issued, guaranteed, securitized, or collateralized by one or more regulated entities.

(d) *Reporting and divestiture.* An employee must provide, in writing, to the DAEO any financial interest prohibited under paragraph (a) of this section acquired prior to the effective date of this part or the commencement of employment with FHFA or without spe-

cific intent, as through gift, inheritance, or marriage, within 30 calendar days from the effective date of this part, commencement of employment with FHFA, or acquisition of such interest. Such financial interest must be divested within 90 calendar days from the date reported unless a waiver is granted in accordance with § 9001.103.

§ 9001.105 Outside employment.

(a) *Prohibited outside employment.* Employees, except special Government employees, shall not engage in:

(1) Employment with a person or entity, other than a State or local government, that is registered as a lobbyist under the Lobbying Disclosure Act of 1995 (2 U.S.C. chapter 26) and engages in lobbying activities concerning FHFA programs; or

(2) Employment with any regulated entity or with the Office of Finance of the Federal Home Loan Bank System.

(b) *Prior approval for and concurrence with other outside employment*—(1) Except as provided in paragraph (b)(2) of this section, before engaging in any outside employment that is not prohibited under paragraph (a) of this section, with or without compensation, an employee, other than a special Government employee, must obtain written approval from his or her supervisor and the concurrence of the DAEO. Nonetheless, special Government employees remain subject to other statutory and regulatory provisions governing their outside activities, including 18 U.S.C. 203(c) and 205(c), as well as applicable provisions of 5 CFR part 2635.

(2) An employee, other than a special Government employee, who before the effective date of this part or commencement of employment with FHFA commenced engaging in outside employment that is not prohibited under paragraph (a) of this section must request written approval from his or her supervisor and the concurrence of the DAEO within 30 calendar days of the effective date of this part or commencement of employment with FHFA. The employee may continue engaging in the outside employment while the request is under review.

(c) *Definition of outside employment.* For purposes of paragraph (b) of this section, *outside employment* means any

form of non-Federal employment or business relationship involving the provision of personal services, whether or not for compensation. It includes, but is not limited to, services as an officer, director, employee, agent, advisor, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing when done under an arrangement with another person or entity for production or publication of the written product. The definition does not include positions as trustee for a family trust for which the only beneficiaries are the employee, the employee's spouse, the employee's minor or dependent children, or any combination thereof. The definition also does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization, unless:

(1) The employee will receive compensation other than reimbursement of expenses;

(2) The organization's activities are devoted substantially to matters relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(B) through (E) and the employee will serve as officer or director of the organization; or

(3) The activities will involve the provision of consultative or professional services. *Consultative services* means the provision of personal services by an employee, including the rendering of advice or consultation, which requires advanced knowledge in a field of science or learning customarily acquired by a course of specialized instruction and study in an institution of higher education, hospital, or similar facility. *Professional services* means the provision of personal services by an employee, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1) or involves a fiduciary relationship as defined in 5 CFR 2636.305(b)(2).

NOTE TO § 9001.105(C): There is a special approval requirement set out in both 18 U.S.C. 203(d) and 205(e), respectively, for certain representational activities otherwise covered by the conflict of interest restrictions on compensation and activities of employees in claims against and other matters affecting the Government. Thus, an employee who

wishes to act as agent or attorney for, or otherwise represent his or her parents, spouse, children, or any person for whom, or any estate for which, he or she is serving as guardian, executor, administrator, trustee, or other personal fiduciary in such matters must obtain the approval required by law of the Government official responsible for the employee's appointment in addition to the regulatory approval required in this section.

(d) *Procedure for requesting approval and concurrence*—(1) The approval required by paragraph (b) of this section shall be requested by e-mail or other form of written correspondence in advance of engaging in outside employment as defined in paragraph (c) of this section.

(2) The request for approval to engage in outside employment shall set forth, at a minimum:

(i) The name of the employer or organization;

(ii) The nature of the activity or other work to be performed;

(iii) The title of the position; and

(iv) The estimated duration of the outside employment.

(3) Upon a significant change in the nature or scope of the outside employment or in the employee's official position within FHFA, the employee must, within seven calendar days of the change, submit a revised request for approval and concurrence.

(e) *Standard for concurrence*. The DAEO may concur with the supervisor's approval required by paragraph (b) of this section only upon his or her written determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

(f) *Issuance of instructions*. The DAEO may issue written instructions governing the submission of requests for approval of and concurrence with outside employment under paragraph (d) of this section. The instructions may exempt categories of employment from the prior approval and concurrence requirement of paragraph (b) of this section based on a determination by the DAEO that employment within those categories of employment will generally be approved and is not likely to involve conduct prohibited by Federal law or regulation, including 5 CFR part 2635 and this part.