

§ 357.11

31 CFR Ch. II (7-1-02 Edition)

If a security interest in a security entitlement is—	And it is—	Then it is governed by—
(1) in favor of a Federal Reserve Bank from a Participant.	not recorded on the books of a Federal Reserve Bank pursuant to § 357.12(e)(2).	the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the Participant's Securities Account is located.
(2) in favor of a Federal Reserve Bank from a Person that is not a Participant.	not recorded on the books of a Federal Reserve Bank pursuant to § 357.12(e)(2).	the law determined in the manner specified in § 357.11.

(c) *What law governs if the jurisdiction in paragraph (b)(1) of this section did not adopt Revised Article 8, or Revised Article 8 as amended by Revised Article 9 (both incorporated by reference, see Sec. 357.2)?* The law specified in paragraph (b)(1) of this section shall be the law of that State as though that State adopted Revised Article 8.

§ 357.11 Laws governing other interests in Treasury securities.

(a) *What does the law (not including the conflict-of-law rules) of a Securities Intermediary's jurisdiction govern?* To the extent not inconsistent with these regulations, the law (not including the conflict-of-law rules) of a Security Intermediary's jurisdiction governs the following:

(1) When a Person acquires a Security Entitlement from the Securities Intermediary;

(2) The rights and duties of the Securities Intermediary and Entitlement Holder that arise out of a Security Entitlement;

(3) Whether the Securities Intermediary owes any duties to an adverse claimant to a Security Entitlement;

(4) Whether a Person may assert an Adverse Claim against a Person who acquires a Security Entitlement from the Securities Intermediary or against a Person who purchases a Security Entitlement or interest therein from an Entitlement Holder; and

(5) The perfection, effect of perfection or non-perfection and priority of a security interest in a Security Entitlement (except as otherwise provided in paragraph (c) of this section).

(b) *What is the "Securities Intermediary's jurisdiction" for purposes of this section?* See the following table:

If . . .	Then the securities intermediary's jurisdiction is . . .
(1) An agreement between the Securities Intermediary and its Entitlement Holder governing the securities account expressly provides that a particular jurisdiction is the Securities Intermediary's jurisdiction for purposes of Part 1 of Article 8 of the Uniform Commercial Code, Article 8 of the Uniform Commercial Code, or the Uniform Commercial Code.	the jurisdiction agreed upon.
(2) An agreement between the Securities Intermediary and its Entitlement Holder governing the securities account expressly provides that it is governed by the law of a particular jurisdiction.	the jurisdiction agreed upon.
(3) The statements in paragraphs (b)(1) and (2) of this table do not apply, but the agreement expressly specifies that the securities account is maintained at an office in a particular jurisdiction.	the jurisdiction where the office is located.
(4) The statements in paragraphs (b)(1) through (3) of this table do not apply and an account statement identifies the office serving the Entitlement Holder's account.	the jurisdiction where the office is located.
(5) None of the statements in paragraphs (b)(1) through (4) of this table apply	the jurisdiction in which the chief executive office of the Securities Intermediary is located.

(c) *What law governs the perfection of a security interest automatically or by filing?* The law (but not the conflict-of-law rules) of the jurisdiction in which the Person creating a security interest is located governs whether and how the security interest may be perfected

automatically or by filing a financing statement. (This is despite the general rule in (a)(5) of this section).

(d) *Where is a Person located, for purposes of paragraph (c) of this section?* A Person's location is determined under state law, including Revised Article 9

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(incorporated by reference, see §357.2), as it may be amended from time to time.

(e) *What law governs if the jurisdiction in table (b) of this section did not adopt Revised Article 8 or Revised Article 8 as amended by Revised Article 9 (both incorporated by reference, see § 357.2)?* The law for the matters specified in paragraph (a) of this section shall be the law of that State as though the State adopted Revised Article 8.

(f) *What other rules apply?* For purposes of the matters specified in paragraph (a) of this section, the Federal Reserve Bank maintaining the Securi-

ties Account is a clearing corporation and the Participant's interest in a Book-entry Security is a Security Entitlement.

§357.12 A Participant's Security Entitlement.

(a) *How is a Participant's Security Entitlement created?* A Federal Reserve Bank indicates by book entry that a Book-entry Security has been credited to a Participant's Securities Account.

(b) *What else do I need to know about a Participant's Security Entitlement?* See the following table:

If a security interest in a security entitlement of a participant . . .	Then . . .
(1) Meets all of the following criteria: (i) is in favor of the United States (ii) is marked on the books of a Federal Reserve Bank (iii) is to secure deposits of public money (including without limitation deposits to the Treasury tax and loan accounts, or other security interested required by Federal statute, regulation, or agreement).	it is created; it is perfected; and it has priority over any other interest in the securities.

(c) *What is the effect of the marking of a security interest in favor of the United States in a Security Entitlement of a Participant on the books of a Federal Reserve Bank?* Where a security interest in favor of the United States in a Security Entitlement of a Participant is marked on the books of a Federal Reserve Bank, such Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized Representative of the United States directing the transfer of the Security.

(d) *Who is an authorized Representative of the United States, for purposes of paragraph (c) in this section?* The official designated in the applicable regulations or in an agreement to which a Federal Reserve Bank is a party, governing the security interest.

(e)(1) *Must the United States and the Federal Reserve Banks agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any Person?* No, they need not agree to act or recognize any party's interest, except:

- (i) To the extent of any specific requirement of Federal law or regulation, or
- (ii) To the extent set forth in any specific agreement with the Federal

Reserve Bank on whose books the interest of the Participant is recorded.

(2) *May a security interest be created and perfected by a Federal Reserve Bank marking its books?* Yes, a security interest in a Security Entitlement that is in favor of a Federal Reserve Bank or a Person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest to the extent required by law, regulation, or an agreement with a Federal Reserve Bank or the Federal Reserve Bank Operating Circular.

(3) *Does this security interest have priority over other interests?* A security interest in a Security Entitlement marked on the books of a Federal Reserve Bank has priority over any other interest in the securities, except a security in favor of the United States, as provided in table (b) of this section.

(4) *In addition to the method provided in paragraph (e)(2) of this section, may a security interest, including a security interest in favor of a Federal Reserve Bank, be perfected in another way?* Yes, a security interest may be perfected by any method under applicable law as described in §357.10(b) or §357.11.

- (i) The applicable law governs the perfection, effect of perfection or non-perfection and priority of a security interest.