

Office of Thrift Supervision, Treasury

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are insured by the FDIC, subject to its rules and regulations.

§ 550.620 May I receive compensation for acting in exempt fiduciary capacities?

You may receive reasonable compensation.

PART 551—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Sec.

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§ 551.10 What does this part do?

This part establishes recordkeeping and confirmation requirements that apply when a savings association

(“you”) effects certain securities transactions for customers.

§ 551.20 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. If you are a Federal savings association, you also must comply with 12 CFR part 550 when you effect such a transaction. If you are a State savings association, you must comply with applicable law when you effect such a transaction.

(b) Exceptions—(1) Small number of transactions. You are not required to comply with §551.50(b) through (d) (recordkeeping) and §551.140(a) through (c) (policies and procedures), if you effected 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 §551.50 (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

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confirmation. These transactions include a transaction effected by your employee who also acts as an employee of a registered broker-dealer (“dual employee”).

§ 551.30 What requirements apply to all transactions?

You must effect all transactions, including transactions excepted under § 551.20, 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.

§ 551.40 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 550.260(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

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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: