

position in such securities and includes, without limitation, interests convertible into such securities, as well as options, rights, warrants, puts, calls, and straddles with respect thereto.

(c) *Divestiture.* The designated agency ethics official may require an employee to divest a security the employee is otherwise authorized to retain under paragraph (b)(2) of this section, based on a determination of substantial conflict under § 2635.403(b) of this title.

(d) *Waivers.* The designated agency ethics official may grant a written waiver from the prohibition contained in this section based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which Commission programs are administered. A waiver under this paragraph may be accompanied by appropriate conditions, such as requiring execution of a written statement of disqualification. Notwithstanding the grant of any waiver, an employee remains subject to the disqualification requirements of 5 CFR 2635.402 and 2635.502.

§ 8401.103 Prior approval for outside employment.

(a) *Prior approval requirement.* (1) Before engaging in any outside employment, whether or not for compensation, a Commission employee who is classified at GS-13 or above, as well as a Commission attorney at any grade level, must obtain the written approval of the employee's immediate supervisor and the designated agency ethics official. This requirement does not

apply to a special Government employee of the Commission.

(2) Requests for approval shall be forwarded through the employee's immediate supervisor to the designated agency ethics official and shall include at a minimum the name of the person, group, or organization for whom the work is to be performed; the type of work to be performed; and the proposed hours of work and approximate dates of employment.

(b) *Standard for approval.* Approval shall be granted only upon a determination that outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR 2635 and this part.

(c) *Definitions.* For purposes of this section:

(1) *Employment* means any form of non-Federal employment or business relationship involving the provision of personal services by the employee. It includes but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee or teacher. It also includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization, unless such activities involve the provision of professional services or advice or are for compensation other than reimbursement expenses.

(2) *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).