

[Form Approved: OMB No. 3209-0007]

OFFICE OF GOVERNMENT ETHICS

Model Confidentiality Agreement Provisions

**[For use in the case of investment management activities]**

The model confidentiality agreement contained in this memorandum is made available by the Office of Government Ethics to attorneys for their use in drafting proposed confidentiality agreements in those cases where such an instrument is an appropriate component of a qualified trust arrangement submitted for certification pursuant to section 102(f)(3) or (4)(B) of the Ethics in Government Act of 1978 (Pub. L. 95-521, as amended) and 5 C.F.R. Part 2634(D). Under the statutory scheme, a trust agreement is not permitted to be recognized as creating an efficacious blind trust arrangement for any purpose under Federal law unless it had been certified by the Office prior to its execution. Proposed confidentiality agreement drafts submitted to the Office for consideration must adhere to the language of the model except to the extent, as agreed to by the Office of Government Ethics, that variations are required by the unusual circumstances of a particular case. The certificates of fiduciaries must be executed in the exact form indicated.

It is strongly recommended in any case in which the use of a blind trust is contemplated that the Office be consulted as early as possible. Prospective trustees or their representatives should schedule an appointment with the staff of the Office of Government Ethics for an orientation to the specialized procedures and requirements which have been established by law with respect to blind trust administration prior to the certification of the trust. As a condition of approval by the Office, prospective trustees must exhibit a familiarity with and commitment to the specialized nature of blind trust administration.

For further information, contact the Office of Government Ethics directly: telephone 202-208-8000, fax 202-208-8037.

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CONFIDENTIALITY AGREEMENT

[INSERT DATE]

Office of General Counsel  
Office of Government Ethics  
1201 New York Avenue NW.  
Washington DC 20005-3917

To Whom It May Concern:

I understand that \_\_\_\_\_ [**appointee**] will be appointed to the position of \_\_\_\_\_ of the \_\_\_\_\_ [**department or agency**]. I further understand that, to avoid any conflict of interest, or appearance of any such conflict, that may arise from his duties and powers in such office and any other office to which he may subsequently be appointed, \_\_\_\_\_ [**appointee**] has submitted a proposed blind trust arrangement to the U.S. Office of Government Ethics, and that \_\_\_\_\_ [**financial institution**] will serve as the Independent Trustee of the blind trust.

Under the provisions of applicable law and the blind trust instrument, \_\_\_\_\_ [**appointee**], as well as his spouse, any minor or dependent child, and any of their personal and professional representatives, are precluded from learning any

1 information with respect to any investment management activities  
2 conducted by the Independent Trustee. Such information is called  
3 "prohibited communications" in this agreement. I am considered  
4 to be in possession of such information because of my financial  
5 interests in investments as to which \_\_\_\_\_ [**financial**  
6 **institution**] has responsibilities.

7 Accordingly, in order to assist \_\_\_\_\_ [**appointee**] in  
8 complying with applicable law, I agree not to have any prohibited  
9 communications with \_\_\_\_\_ [**appointee**], or his spouse and  
10 children or any of their personal and professional  
11 representatives, while the blind trust arrangement is in  
12 existence. Specifically, I will not knowingly or negligently  
13 disclose or make available to any person referred to in the  
14 preceding sentence, or the media or general public, any  
15 information as to the acquisition, retention, or disposition of  
16 any particular securities in any portfolio for which \_\_\_\_\_  
17 [**financial institution**] has responsibilities. Also, I will not  
18 consult with nor advise \_\_\_\_\_ [**appointee**] with respect to  
19 any matter related to \_\_\_\_\_ [**financial institution**] or any  
20 such portfolio. Further, I will instruct my spouse, any minor or  
21 dependent child, and our representatives to restrict their  
22 communications in the manner described in this paragraph.

23  
24 Sincerely,

25  
26 \_\_\_\_\_

1 NOTARIZATION

2 REQUIRED

3

4 ACKNOWLEDGMENT:

5 The above Confidentiality Agreement is acknowledged this \_\_\_\_\_  
6 day of \_\_\_\_\_, \_\_\_\_.

7

8 \_\_\_\_\_

9 [appointee]

10 NOTARIZATION

11 REQUIRED

12

13

14 The above Confidentiality Agreement is acknowledged this \_\_\_\_\_  
15 day of \_\_\_\_\_, \_\_\_\_.

16

17 \_\_\_\_\_

18 [financial institution]

19 By: \_\_\_\_\_

20 (title)

21

22 NOTARIZATION

23 REQUIRED

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### **Privacy Act Statement**

Section 102(f) of the Ethics in Government Act of 1978 as amended (the "Ethics Act"), 5 U.S.C. Appendix, § 102(f), and subpart D of 5 CFR part 2634 of the regulations of the Office of Government Ethics (OGE) require the reporting of this information for the administration of qualified trusts under the Ethics Act. The primary use of the information on the trust instrument prepared based in part upon this model draft document is for review by Government officials of OGE and the agency of the Government employee for whom the trust is being established to determine compliance with applicable Federal laws and regulations as regards qualified trusts. Additional disclosures of the information in the trust document itself may be made: (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest issue; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a discovery request or for the appearance of a witness in a pending judicial or administrative proceeding, if the information is relevant to the subject matter. Knowing or willful falsification of information on the trust document prepared from this model draft or failure to file or report information required to be reported under title I of the Ethics Act and 5 CFR part 2634 of the OGE regulations may lead to disqualification as a trustee or other fiduciary as well as possible disqualification of the underlying trust itself. Knowing and willful falsification of information required under the Ethics Act and the regulations may also subject you to criminal prosecution.

### **Public Burden Information and Paperwork Reduction Act Statement**

This collection of information is estimated to take an average of 20 minutes per communication letter, given the estimated amount of time deemed necessary to prepare a communication. You can send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Deputy Director for Office of Administration and Information Management, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917. Do not send your completed communication letter to this address; rather, see the remainder of the instructions to this model set of drafts.

Pursuant to the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (that number, 3209-0007, is displayed here and in the upper left-hand corner of the first page of this OGE model qualified trust draft document).