

Comptroller of the Currency, Treasury

§ 12.1

(ii) Sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002 (codified at 15 U.S.C. 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265).

(2) [Reserved]

(b) *References to the Commission.* Any references to the "Securities and Exchange Commission" or the "Commission" in the rules, regulations and forms described in paragraph (a)(1) of this section shall with respect to securities issued by registered national banks be deemed to refer to the OCC unless the context otherwise requires.

[68 FR 68492, Dec. 9, 2003]

§ 11.3 Filing requirements and inspection of documents.

(a) *Filing requirements.* (1) *General.* Except as otherwise provided in this section, all papers required to be filed with the OCC pursuant to the 1934 Act or regulations thereunder shall be submitted in quadruplicate to the Securities and Corporate Practices Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Material may be filed by delivery to the OCC through the mail, by fax (202-874-5279), or otherwise.

(2) *Statements filed pursuant to section 16(a) of the 1934 Act.* Statements required under section 16(a) of the 1934 Act shall be filed electronically, as directed by the OCC.

(3) *Date of filing.* (i) *General.* The date on which papers are actually received by the OCC shall be the date of filing, if the person or bank filing the papers has complied with all applicable requirements.

(ii) *Electronic filings.* An electronic filing of a statement required under section 16(a) of the 1934 Act that is submitted by direct transmission on or before 10 p.m. Eastern Standard Time or Eastern Daylight Savings Time, whichever is currently in effect, shall be deemed filed on the same business day.

(4) *Mandatory compliance date.* Compliance with paragraph (a)(2) of this section and any applicable requirements that such statements must be posted on a registered national bank's Web site are mandatory for statements required to be filed on or after January 1, 2004.

(b) Copies of registration statements, definitive proxy solicitation materials,

reports, and annual reports to shareholders required by this part (exclusive of exhibits) are available from the Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, at the address listed in paragraph (a) of this section.

[60 FR 57332, Nov. 15, 1995, as amended at 68 FR 54984, Sept. 22, 2003]

§ 11.4 Filing fees.

(a) The OCC may require filing fees to accompany certain filings made under this part before it will accept the filing. The OCC provides an applicable fee schedule for such filings in the "Notice of Comptroller of the Currency Fees" described in 12 CFR 8.8.

(b) Fees must be paid by check payable to the Comptroller of the Currency.

[57 FR 46084, Oct. 7, 1992; 57 FR 54499, Nov. 19, 1992, as amended at 60 FR 57332, Nov. 15, 1995]

PART 12—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

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INTERPRETATIONS

- 12.101 National bank disclosure of remuneration for mutual fund transactions.
- 12.102 National bank use of electronic communications as customer notifications.

AUTHORITY: 12 U.S.C. 24, 92a, and 93a.

SOURCE: 61 FR 63965, Dec. 2, 1996, unless otherwise noted.

§ 12.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued pursuant to 12 U.S.C. 24, 92a, and 93a.

(b) *Purpose.* This part establishes rules, policies, and procedures applicable to recordkeeping and confirmation requirements for certain securities transactions effected by national banks for customers.

(c) *Scope*—(1) *General*. Any security transaction effected for a customer by a national bank is subject to this part, except as provided by paragraph (c)(2) of this section. This part applies to a national bank effecting transactions in government securities. This part also applies to municipal securities transactions by a national bank that is not registered as a “municipal securities dealer” with the Securities and Exchange Commission. See 15 U.S.C. 78c(a)(30) and 78o–4. This part, as well as 12 CFR part 9, applies to securities transactions effected by a national bank as fiduciary.

(2) *Exceptions*—(i) *Small number of transactions*. The requirements of §§ 12.3(a)(2) through (4) and 12.7(a)(1) through (3) do not apply to a national bank having an average of fewer than 200 securities transactions per year for customers over the prior three calendar year period. The calculation of this average does not include transactions in government securities.

(ii) *Government securities*. The record-keeping requirements of § 12.3 do not apply to national banks effecting fewer than 500 government securities brokerage transactions per year. This exception does not apply to government securities dealer transactions by national banks. See 17 CFR 404.4(a).

(iii) *Municipal securities*. This part does not apply to transactions in municipal securities conducted by a national bank registered with the Securities and Exchange Commission as a “municipal securities dealer” as defined in title 15 U.S.C. 78c(a)(30). See 15 U.S.C. 78o–4.

(iv) *Foreign branches*. This part does not apply to securities transactions conducted by a foreign branch of a national bank.

(v) *Transactions effected by registered broker/dealers*. This part does not apply to securities transactions effected by a broker or dealer registered with the Securities and Exchange Commission (SEC) where the SEC-registered broker or dealer directly provides the customer a confirmation; including, transactions effected by a national bank employee when acting as an employee of an SEC-registered broker/dealer.

(3) *Safe and sound operations*. Notwithstanding paragraph (c)(2) of this

section, every national bank conducting securities transactions for customers shall maintain effective systems of records and controls regarding their customer securities transactions to ensure safe and sound operations. The systems maintained must clearly and accurately reflect appropriate information and provide an adequate basis for an audit.

§ 12.2 Definitions.

(a) *Asset-backed security* means a security that is primarily serviced by the cashflows 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 plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to the security holders.

(b) *Collective investment fund* means any fund established pursuant to 12 CFR 9.18.

(c) *Completion of the transaction* means:

(1) In the case of a customer who purchases a security through or from a national bank, except as provided in paragraph (c)(2) of this section, the time when the customer pays the bank any part of the purchase price, or, if payment is made by a bookkeeping entry, the time when the bank makes the bookkeeping entry for any part of the purchase price;

(2) In the case of a customer who purchases a security through or from a national bank and who makes payment for the security prior to the time when payment is requested or notification is given that payment is due, the time when the bank delivers the security to or into the account of the customer;

(3) In the case of a customer who sells a security through or to a national bank, except as provided in paragraph (c)(4) of this section, if the security is not in the custody of the bank at the time of sale, the time when the security is delivered to the bank, and if the security is in the custody of the bank at the time of sale, the time when the bank transfers the security from the account of the customer;