

## Federal Deposit Insurance Corporation

## § 344.1

insurance product or annuity, a written acknowledgment by the consumer that the consumer received the disclosures. You may permit a consumer to acknowledge receipt of the disclosures electronically or in paper form. If the disclosures required under paragraphs (a) or (b) of this section are provided in connection with a transaction that is conducted by telephone, you must:

(i) Obtain an oral acknowledgment of receipt of the disclosures and maintain sufficient documentation to show that the acknowledgment was given; and

(ii) Make reasonable efforts to obtain a written acknowledgment from the consumer.

(d) *Advertisements and other promotional material for insurance products or annuities.* The disclosures described in paragraph (a) of this section are required in advertisements and promotional material for insurance products or annuities unless the advertisements and promotional materials are of a general nature describing or listing the services or products offered by the bank.

### § 343.50 Where insurance activities may take place.

(a) *General rule.* A bank must, to the extent practicable, keep the area where the bank conducts transactions involving insurance products or annuities physically segregated from areas where retail deposits are routinely accepted from the general public, identify the areas where insurance product or annuity sales activities occur, and clearly delineate and distinguish those areas from the areas where the bank's retail deposit-taking activities occur.

(b) *Referrals.* Any person who accepts deposits from the public in an area where such transactions are routinely conducted in the bank may refer a consumer who seeks to purchase an insurance product or annuity to a qualified person who sells that product only if the person making the referral receives no more than a one-time, nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

### § 343.60 Qualification and licensing requirements for insurance sales personnel.

A bank may not permit any person to sell or offer for sale any insurance product or annuity in any part of its office or on its behalf, unless the person is at all times appropriately qualified and licensed under applicable State insurance licensing standards with regard to the specific products being sold or recommended.

#### APPENDIX A TO PART 343—CONSUMER GRIEVANCE PROCESS

Any consumer who believes that any bank or any other person selling, soliciting, advertising, or offering insurance products or annuities to the consumer at an office of the bank or on behalf of the bank has violated the requirements of this part should contact the Division of Supervision and Consumer Protection (DSC), Federal Deposit Insurance Corporation, at the following address: 550 17th Street, NW., Washington, DC 20429, or telephone 202-942-3100 or 800-934-3342, or e-mail [dcainternet@fdic.gov](mailto:dcainternet@fdic.gov).

## PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

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### § 344.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to ensure that purchasers of securities in transactions effected by a state nonmember insured bank (except a District bank) or a foreign bank having an insured branch are provided adequate information regarding transactions. This part is also designed to ensure

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that banks subject to this part maintain adequate records and controls with respect to the securities transactions they effect.

(b) *Scope; general.* Any security transaction effected for a customer by a bank is subject to this part unless excepted by §344.2. A bank effecting transactions in government securities is subject to the notification, record-keeping, and policies and procedures requirements of this part. This part also applies to municipal securities transactions by a 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.

### § 344.2 Exceptions.

(a) A bank effecting securities transactions for customers is not subject to all or part of this part 344 to the extent that they qualify for one or more of the following exceptions:

(1) *Small number of transactions.* The requirements of §§344.4(a) (2) through (4) and 344.8(a) (1) through (3) do not apply to a bank effecting 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.

(2) *Government securities.* The record-keeping requirements of §344.4 do not apply to banks effecting fewer than 500 government securities brokerage transactions per year. This exemption does not apply to government securities dealer transactions by banks.

(3) *Municipal securities.* This part does not apply to transactions in municipal securities effected by a 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.

(4) *Foreign branches.* Activities of foreign branches of a bank shall not be subject to the requirements of this part.

(5) *Transactions effected by registered broker/dealers.* (i) This part does not apply to securities transactions effected for a bank customer by a registered broker/dealer if:

(A) The broker/dealer is fully disclosed to the bank customer; and

(B) The bank customer has a direct contractual agreement with the broker/dealer.

(ii) This exemption extends to bank arrangements with broker/dealers which involve bank employees when acting as employees of, and subject to the supervision of, the registered broker/dealer when soliciting, recommending, or effecting securities transactions.

(b) *Safe and sound operations.* Notwithstanding this section, every bank effecting securities transactions for customers shall maintain, directly or indirectly, effective systems of records and controls regarding their customer securities transactions to ensure safe and sound operations. The records and systems maintained must clearly and accurately reflect the information required under this part and provide an adequate basis for an audit.

### § 344.3 Definitions.

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

(b) *Bank* means a state nonmember insured bank (except a District bank) or a foreign bank having an insured branch.

(c) *Cash management sweep account* means a prearranged, automatic transfer of funds above a certain dollar level from a deposit account to purchase a security or securities, or any prearranged, automatic redemption or sale of a security or securities when a deposit account drops below a certain level with the proceeds being transferred into a deposit account.

(d) *Collective investment fund* means funds held by a bank as fiduciary and, consistent with local law, invested collectively:

(1) In a common trust fund maintained by such bank exclusively for the collective investment and reinvestment of monies contributed thereto by