

§81.93

in this subpart H, the Securities Documentation, and Federal Reserve Bank Operating Circulars (but not including any choice of law provisions in the Security Documentation to the extent such provisions conflict with the Book-entry regulations contained in this subpart H):

(1) The rights and obligations of a GSE and the Federal Reserve Banks with respect to:

(i) A Book-entry GSE Security or Security Entitlement; and

(ii) The operation of the Book-entry System as it applies to GSE Securities; and

(2) The rights of any Person, including a Participant, against a GSE and the Federal Reserve Banks with respect to:

(i) A Book-entry GSE Security or Security Entitlement; and

(ii) The operation of the Book-entry System as it applies to GSE Securities;

(b) A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Participant and that is not recorded on the books of a Federal Reserve Bank pursuant to §81.93(c)(1), is governed by the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the Participant's Securities Account is located. A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Person that is not a Participant, and that is not recorded on the books of a Federal Reserve Bank pursuant to §81.93(c)(1), is governed by the law determined in the manner specified in paragraph (d) of this section.

(c) If the jurisdiction specified in the first sentence of paragraph (b) of this section is a State that has not adopted Revised Article 8, then the law specified in paragraph (b) of this section shall be the law of that State as though Revised Article 8 had been adopted by that State.

(d) To the extent not otherwise inconsistent with this subpart H, and notwithstanding any provision in the Security Documentation setting forth a choice of law, the provisions set forth in 31 CFR 357.11 regarding law governing other interests apply and shall be read as though modified to effec-

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tuate the application of 31 CFR 357.11 to the GSEs.

[61 FR 63948, Dec. 2, 1996, as amended at 62 FR 28977, May 29, 1997]

§81.93 Creation of Participant's Security Entitlement; security interests.

(a) A Participant's Security Entitlement is created when a Federal Reserve Bank indicates by book-entry that a Book-entry GSE Security has been credited to a Participant's Securities Account.

(b) A security interest in a Security Entitlement of a Participant in favor of the United States to secure deposits of public money, including without limitation deposits to the Treasury tax and loan accounts, or other security interest in favor of the United States that is required by Federal statute, regulation, or agreement, and that is marked on the books of a Federal Reserve Bank is thereby effected and perfected, and has priority over any other interest in the securities. Where a security interest in favor of the United States in a Security Entitlement of a Participant is marked on the books of a Federal Reserve Bank, such Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized representative of the United States directing the transfer of the security. For purposes of this paragraph, an "authorized representative of the United States" is the official designated in the applicable regulations or agreement to which a Federal Reserve Bank is a party, governing the security interest.

(c)(1) A GSE and the Federal Reserve Banks have no obligation to agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any Person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the Participant is recorded. To the extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a Security Entitlement that is in favor of a Federal Reserve Bank,

a GSE, or a Person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest. Except as provided in paragraph (b) of this section, a security interest in a Security Entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the securities.

(2) In addition to the method provided in paragraph (c)(1) of this section, a security interest, including a security interest in favor of a Federal Reserve Bank, may be perfected by any method by which a security interest may be perfected under applicable law as described in § 81.92(b) or (d). The perfection, effect of perfection or non-perfection and priority of a security interest are governed by such applicable law. A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under such law, including with respect to the effect of perfection and priority of such security interest. A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for such purposes.

[61 FR 63948, Dec. 2, 1996, as amended at 62 FR 28977, May 29, 1997]

§ 81.94 Obligations of GSEs; no adverse claims.

(a) Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 81.93(c)(1), for the purposes of this subpart H, the GSE and the Federal Reserve Banks shall treat the Participant to whose Securities Account an interest in a Book-entry GSE Security has been credited as the person exclusively entitled to issue a Transfer Message, to receive interest and other payments with respect thereof and otherwise to exercise all the rights and powers with respect to such Security, notwithstanding any information or notice to the contrary. Neither the Federal Reserve Banks nor a GSE is liable to a Person asserting or having an adverse claim to a Security Entitlement or to a Book-entry GSE Security in a Participant's Securities Account, including any such claim arising as a result of the transfer or disposition of a Book-entry GSE Secu-

rity by a Federal Reserve Bank pursuant to a Transfer Message that the Federal Reserve Bank reasonably believes to be genuine.

(b) The obligation of the GSE to make payments (including payments of interest and principal) with respect to Book-entry GSE Securities is discharged at the time payment in the appropriate amount is made as follows:

(1) Interest or other payments on Book-entry GSE Securities is either credited by a Federal Reserve Bank to a Funds Account maintained at such Bank or otherwise paid as directed by the Participant.

(2) Book-entry GSE Securities are redeemed in accordance with their terms by a Federal Reserve Bank withdrawing the securities from the Participant's Securities Account in which they are maintained and by either crediting the amount of the redemption proceeds, including both redemption proceeds, where applicable, to a Funds Account at such Bank or otherwise paying such redemption proceeds as directed by the Participant. No action by the Participant ordinarily is required in connection with the redemption of a Book-entry GSE Security.

[61 FR 63948, Dec. 2, 1996, as amended at 62 FR 28977, May 28, 1997]

§ 81.95 Authority of Federal Reserve Banks.

(a) Each Federal Reserve Bank is hereby authorized as fiscal agent of the GSEs to perform the following functions with respect to the issuance of Book-entry GSE Securities offered and sold by a GSE to which this subpart H applies, in accordance with the Securities Documentation, Federal Reserve Bank Operating Circulars, this subpart H, and procedures established by the Secretary consistent with these authorities:

(1) To service and maintain Book-entry GSE Securities in accounts established for such purposes;

(2) To make payments with respect to such securities, as directed by the GSE;

(3) To effect transfer of Book-entry GSE Securities between Participants' Securities Accounts as directed by the Participants;