§ 344.8 Securities trading policies and procedures.

(a) Policies and procedures. Every bank effecting securities transactions for customers shall establish written policies and procedures providing:

(1) Assignment of responsibility for supervision of all officers or employees who:
   (i) Transmit orders to or place orders with broker/dealers; or
   (ii) Execute transactions in securities for customers;

(2) Assignment of responsibility for supervision and reporting, separate from those in paragraph (a)(1) of this section, with respect to all officers or employees who process orders for notification or settlement purposes, or perform other back office functions with respect to securities transactions effected for customers;

(3) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination; and

(4) Where applicable, and where permissible under local law, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction.

§ 344.9 Personal securities trading reporting by bank officers and employees.

(a) Officers and employees subject to reporting. Bank officers and employees who:

(1) Make investment recommendations or decisions for the accounts of customers;

(2) Participate in the determination of such recommendations or decisions; or

(3) In connection with their duties, obtain information concerning which securities are being purchased or sold or recommend such action, must report to the bank, within 30-calendar days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales.

(b) Exempt transactions. Excluded from this reporting requirement are:

(1) Transactions for the benefit of the officer or employee over which the officer or employee has no direct or indirect influence or control;

(2) Transactions in registered investment company shares;

(3) Transactions in government securities; and

(4) All transactions involving in the aggregate $10,000 or less during the calendar quarter.

(c) Alternative report. Where a bank acts as an investment adviser to an investment company registered under the Investment Company Act of 1940, the bank’s officers and employees may
fulfill their reporting requirement under paragraph (a) of this section by filing with the bank the “access persons” personal securities trading report required by (SEC) Rule 17j–1, 17 CFR 270.17j–1.


§344.10 Waivers.

The Board of Directors of the FDIC, in its discretion, may waive for good cause all or any part of this part 344.

Effective Date Note: At 78 FR 76723, Dec. 19, 2013, part 344 was revised, effective Jan. 21, 2014. For the convenience of the user, the revised text is set forth as follows:

PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS (EFFECTIVE JANUARY 22, 2014)

Sec.

344.1 Purpose and scope.

344.2 Exceptions.

344.3 Definitions.

344.4 Recordkeeping.

344.5 Content and time of notification.

344.6 Notification by agreement; alternative forms and times of notification.

344.7 Settlement of securities transactions.

344.8 Securities trading policies and procedures.

344.9 Personal securities trading reporting by officers and employees.

344.10 Waivers.


§344.1 Purpose and scope.

(a) Purpose. The purpose of this part is to ensure that purchasers of securities in transactions effected by FDIC-supervised institutions are provided adequate information regarding transactions. This part is also designed to ensure that FDIC-supervised institutions 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 an FDIC-supervised institution is subject to this part unless excepted by §344.2. An FDIC-supervised institution effecting transactions in government securities is subject to the notification, recordkeeping, and policies and procedures requirements of this part. This part also applies to municipal securities transactions by an FDIC-supervised institution 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) An FDIC-supervised institution 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 an FDIC-supervised institution effecting an average of fewer than 500 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 recordkeeping requirements of §344.4 do not apply to FDIC-supervised institutions effecting fewer than 500 government securities brokerage transactions per year. This exemption does not apply to government securities dealer transactions by FDIC-supervised institutions.


(4) Foreign branches. Activities of foreign branches of FDIC-supervised institutions 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 an FDIC-supervised institution’s customer by a registered broker/dealer if:

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

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

(ii) This exemption extends to arrangements with broker/dealers which involve FDIC-supervised institution 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 FDIC-supervised institution 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