

## § 150.180

and facilities to perform services unrelated to the exercise of fiduciary powers, to the extent not prohibited by applicable law.

### **§ 150.180 May I perform fiduciary services for, or purchase fiduciary services from, another association or entity?**

You may perform services related to the exercise of fiduciary powers for another association or other entity under a written agreement. You may also purchase services related to the exercise of fiduciary powers from another association or other entity under a written agreement.

### **§ 150.190 Must fiduciary officers and employees be bonded?**

You must obtain an adequate bond for all fiduciary officers and employees.

#### REVIEW OF A FIDUCIARY ACCOUNT

### **§ 150.200 Must I review a prospective account before I accept it?**

Before accepting a prospective fiduciary account, you must review it to determine whether you can properly administer the account.

### **§ 150.210 Must I conduct another review of an account after I accept it?**

After you accept a fiduciary account for which you have investment discretion, you must conduct a prompt review of all assets of the account to evaluate whether they are appropriate, individually and collectively, for the account.

### **§ 150.220 Are any other account reviews required?**

At least once every calendar year, you must conduct a review of all assets of each fiduciary account for which you have investment discretion. In this review, you must evaluate whether the assets are appropriate, individually and collectively, for the account.

#### CUSTODY AND CONTROL OF ASSETS

### **§ 150.230 Who must maintain custody or control of assets in a fiduciary account?**

You must place assets of fiduciary accounts in the joint custody or con-

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trol of not fewer than two fiduciary officers or employees designated for that purpose by the board of directors.

### **§ 150.240 May I hold investments of a fiduciary account off-premises?**

You may hold the investments of a fiduciary account off-premises, if this practice is consistent with applicable law, and you maintain adequate safeguards and controls.

### **§ 150.245 When is a fiduciary not required to maintain custody or control of fiduciary assets?**

If you are deemed a fiduciary based solely on your capacity as investment advisor, as that capacity is defined in § 9.101(a) of this chapter, and have no other fiduciary capacity as enumerated in § 150.30, you are not required to maintain custody or control of fiduciary assets as set forth in § 150.220 or § 150.240.

[82 FR 8109, Jan. 23, 2017]

### **§ 150.250 Must I keep fiduciary assets separate from other assets?**

You must keep the assets of fiduciary accounts separate from your other assets. You must also keep the assets of each fiduciary account separate from all other accounts, or you must identify the investments as the property of a particular account, except as provided in § 150.260.

#### INVESTING FUNDS OF A FIDUCIARY ACCOUNT

### **§ 150.260 How may I invest funds of a fiduciary account?**

(a) *General.* You must invest funds of a fiduciary account in a manner consistent with applicable law.

(b) *Collective investment funds.* (1) You may invest funds of a fiduciary account in a collective investment fund, including a collective investment fund that you have established. In establishing and administering such funds, you must comply with 12 CFR 9.18.

(2) If you must file a document with the OCC under 12 CFR 9.18, the OCC may review such documents for compliance with this part and other laws and regulations.

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(3) “Bank” and “national bank” as used in 12 CFR 9.18 shall be deemed to include a Federal savings association.

### FUNDS AWAITING INVESTMENT OR DISTRIBUTION

#### **§ 150.290 What must I do with fiduciary funds awaiting investment or distribution?**

If you have investment discretion or discretion over distributions for a fiduciary account which contains funds awaiting investment or distribution, you must ensure that those funds do not remain uninvested and undistributed any longer than is reasonable for the proper management of the account and consistent with applicable law. You also must obtain a rate of return for those funds that is consistent with applicable law.

#### **§ 150.300 Where may I deposit fiduciary funds awaiting investment or distribution?**

(a) *Self deposits.* You may deposit funds of a fiduciary account that are awaiting investment or distribution in your other departments, unless prohibited by applicable law.

(b) *Affiliate deposits.* You may also deposit funds of a fiduciary account that are awaiting investment or distribution with an affiliated insured depository institution, unless prohibited by applicable law.

#### **§ 150.310 What if the FDIC does not insure the deposits?**

If the FDIC does not insure the entire amount of a self deposit, you must set aside collateral as security. If the FDIC does not insure the entire amount of an affiliate deposit, you or your affiliate must set aside collateral as security. The market value of the collateral must at all times equal or exceed the amount of the uninsured fiduciary funds. You must place the collateral under the control of appropriate fiduciary officers and employees.

#### **§ 150.320 What is acceptable collateral for uninsured deposits?**

Any of the following is acceptable collateral for self deposits or affiliate deposits under § 150.310:

(a) Direct obligations of the United States, or other obligations fully guar-

anteed by the United States as to principal and interest.

(b) Readily marketable securities of the classes in which state-chartered corporate fiduciaries are permitted to invest fiduciary funds under applicable state law.

(c) Other readily marketable securities as the OCC may determine.

(d) Surety bonds, to the extent they provide adequate security, unless prohibited by applicable law.

(e) Any other assets that qualify under applicable state law as appropriate security for deposits of fiduciary funds.

### RESTRICTIONS ON SELF DEALING

#### **§ 150.330 Are there investments in which I may not invest funds of a fiduciary account?**

You may not invest funds of a fiduciary account for which you have investment discretion in the following assets, unless authorized by applicable law:

(a) The stock or obligations of, or assets acquired from, you or any of your directors, officers, or employees.

(b) The stock or obligations of, or assets acquired from, your affiliates or any of their directors, officers, or employees.

(c) The stock or obligations of, or assets acquired from, other individuals or organizations if you have an interest in the individual or organization that might affect the exercise of your best judgment.

#### **§ 150.340 May I exercise rights to purchase additional stock or fractional shares of my stock or obligations or the stock or obligations of my affiliates?**

If the retention of investments in your stock or obligations or the stock or obligations of an affiliate in fiduciary accounts is consistent with applicable law, you may do either of the following:

(a) Exercise rights to purchase additional stock (or securities convertible into additional stock) when these rights are offered *pro rata* to stockholders.

(b) Purchase fractional shares to complement fractional shares acquired through the exercise of rights or