

§ 9.100

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an application on Form TA–1 is filed unless the OCC accelerates, denies, or postpones such registration in accordance with section 17A(c) of the Securities Exchange Act of 1934.

(2) *Amendments to registration.* Within 60 days following the date on which any information reported on Form TA–1 becomes inaccurate, misleading, or incomplete, the registrant shall file an amendment on FFIEC Form TA–1 correcting the inaccurate, misleading, or incomplete information. The filing of an amendment to an application for registration as a transfer agent under this section, which registration has not become effective, shall postpone the effective date of the registration for 30 days following the date on which the amendment is filed unless the OCC accelerates, denies, or postpones the registration in accordance with Section 17A(c) of the Securities Exchange Act of 1934.

(3) *Withdrawal from registration.* Any registered national bank transfer agent that ceases to engage in activities that require registration under Section 17A(c) of the Securities Exchange Act of 1934 may file a written notice of withdrawal from registration with the OCC. Deregistration shall be effective 60 days after filing.

(4) *Reports.* Every registration or amendment filed under this section shall constitute a report or application within the meaning of Sections 17, 17A(c), and 32(a) of the Securities Exchange Act of 1934.

(b) *Operational and reporting requirements.* The rules adopted by the Securities and Exchange Commission pursuant to Section 17A of the Securities Exchange Act of 1934 prescribing operational and reporting requirements for transfer agents apply to the domestic activities of registered national bank transfer agents.

[73 FR 22242, Apr. 24, 2008]

INTERPRETATIONS

§ 9.100 Acting as indenture trustee and creditor.

With respect to a debt securities issuance, a national bank may act both as indenture trustee and as creditor until 90 days after default, if the bank

maintains adequate controls to manage the potential conflicts of interest.

§ 9.101 Providing investment advice for a fee.

(a) *In general.* The term “fiduciary capacity” at § 9.2(e) is defined to include “investment adviser, if the bank receives a fee for its investment advice.” In other words, if a bank is providing investment advice for a fee, then it is acting in a fiduciary capacity. For purposes of that definition, “investment adviser” generally means a national bank that provides advice or recommendations concerning the purchase or sale of specific securities, such as a national bank engaged in portfolio advisory and management activities (including acting as investment adviser to a mutual fund). Additionally, the qualifying phrase “if the bank receives a fee for its investment advice” excludes those activities in which the investment advice is merely incidental to other services.

(b) *Specific activities—(1) Full-service brokerage.* Engaging in full-service brokerage may entail providing investment advice for a fee, depending upon the commission structure and specific facts. Full-service brokerage involves investment advice for a fee if a non-bank broker engaged in that activity is considered an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*).

(2) *Activities not involving investment advice for a fee.* The following activities generally do not entail providing investment advice for a fee:

(i) Financial advisory and counseling activities, including strategic planning of a financial nature, merger and acquisition advisory services, advisory and structuring services related to project finance transactions, and providing market economic information to customers in general;

(ii) Client-directed investment activities (*i.e.*, the bank has no investment discretion) where investment advice and research may be made available to the client, but the fee does not depend on the provision of investment advice;

(iii) Investment advisory activities incidental to acting as a municipal securities dealer;

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(iv) Real estate management services provided to other financial institutions;

(v) Real estate consulting services, including acting as a finder in locating, analyzing, and making recommendations regarding the purchase of property, and making recommendations concerning the sale of property;

(vi) Advisory activities concerning bridge loans;

(vii) Advisory activities for homeowners' associations;

(viii) Advisory activities concerning tax planning and structuring; and

(ix) Investment advisory activities authorized by the OCC under 12 U.S.C. 24(Seventh) as incidental to the business of banking.

[63 FR 6473, Feb. 9, 1998]

PART 10—MUNICIPAL SECURITIES DEALERS

Sec.

10.1 Scope.

10.2 Filing requirements.

AUTHORITY: 12 U.S.C. 93a, 481, 1462a, 1463, 1464(c), 1818, and 5412(b)(2)(B); 15 U.S.C. 78o-4(c)(5) and 78q-78w.

SOURCE: 63 FR 29094, May 28, 1998, unless otherwise noted.

§ 10.1 Scope.

This part applies to:

(a) Any national bank or Federal savings association and separately identifiable department or division of a national bank or Federal savings association (collectively, a national bank or Federal savings association) that acts as a municipal securities dealer, as that term is defined in section 3(a)(30) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(30)); and

(b) Any person who is associated or will be associated with a national bank or Federal savings association in the capacity of a municipal securities principal or a municipal securities representative, as those terms are defined in Rule G-3 of the Municipal Securities Rulemaking Board (MSRB). MSRB rules may be obtained at www.msrb.org.

[63 FR 29094, May 28, 1998, as amended at 73 FR 22242, Apr. 24, 2008; 82 FR 8105, Jan. 23, 2017]

§ 10.2 Filing requirements.

(a) A national bank or Federal savings association shall use Form MSD-4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) for obtaining the information required by MSRB Rule G-7(b) from a person identified in § 10.1(b). A national bank or Federal savings association receiving a completed MSD-4 form from a person identified in § 10.1(b) must submit this form to the OCC before permitting the person to be associated with it as a municipal securities principal or a municipal securities representative.

(b) A national bank or Federal savings association shall submit Form MSD-5 (Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) to the OCC within 30 days of terminating a person's association with the national bank or Federal savings association as a municipal securities principal or municipal securities representative.

(c) Forms MSD-4 and MSD-5, with instructions, may be obtained at <http://www.banknet.gov/>.

[63 FR 29094, May 28, 1998, as amended at 63 FR 71343, Dec. 24, 1998; 79 FR 15641, Mar. 21, 2014; 82 FR 8105, Jan. 23, 2017]

PART 11—SECURITIES EXCHANGE ACT DISCLOSURE RULES

Sec.

11.1 Authority.

11.2 Reporting requirements for registered national banks and Federal savings associations.

11.3 Filing requirements and inspection of documents.

11.4 Filing fees.

AUTHORITY: 12 U.S.C. 93a, 1462a, 1463, 1464 and 5412(b)(2)(B); 15 U.S.C. 78j-1(m), 78m, 78n, 78p, 78w, 78l, 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265.

SOURCE: 57 FR 46084, Oct. 7, 1992; 57 FR 54499, Nov. 19, 1992, unless otherwise noted.

§ 11.1 Authority.

The Office of the Comptroller of the Currency (OCC) is vested with the powers, functions, and duties otherwise vested in the Securities and Exchange