

§ 2634.803

determined by the Office of Government Ethics, for those ethics agreements which are submitted to it (see § 2634.803), or by the designated agency ethics official for all other ethics agreements.

Example: An official of the ABC Aircraft Company is nominated to a Department of Defense position requiring the advice and consent of the Senate. As a condition of assuming the position, the individual has agreed to divest himself of his ABC Aircraft stock which he recently acquired while he was an officer with the company. However, the Securities and Exchange Commission prohibits officers of public corporations from deriving a profit from the sale of stock in the corporation in which they hold office within six months of acquiring the stock, and directs that any such profit must be returned to the issuing corporation or its stockholders. Since meeting the usual three-month time limit specified in this subpart for satisfying an ethics agreement might entail losing any profit that could be realized on the sale of this stock, the nominee requests that the limit be extended beyond the six-month period imposed by the Commission. Written approval must be obtained from the Office of Government Ethics to extend the three-month period.

§ 2634.803 Notification of ethics agreements.

(a) *Nominees to positions requiring the advice and consent of the Senate.* (1) In the case of a nominee referred to in § 2634.201(c), the designated agency ethics official will include with the report submitted to the Office of Government Ethics any ethics agreement which the nominee has made.

(2) A designated agency ethics official must immediately notify the Office of Government Ethics of any ethics agreement of a nominee which is made or becomes known to the designated agency ethics official after the submission of the nominee's report to the Office of Government Ethics. This requirement includes an ethics agreement made between a nominee and the Senate confirmation committee. The nominee must immediately report to the designated agency ethics official any ethics agreement made with the committee.

(3) The Office of Government Ethics must immediately apprise the designated agency ethics official and the Senate confirmation committee of any

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ethics agreements made directly between the nominee and the Office of Government Ethics.

(4) Any ethics agreement approved by the Office of Government Ethics during its review of a nominee's financial disclosure report may not be modified without prior approval from the Office of Government Ethics.

(b) *Incumbents and other reporting individuals.* Incumbents and other reporting individuals may be required to enter into an ethics agreement with the designated agency ethics official for the employee's agency. Where an ethics agreement has been made with someone other than the designated agency ethics official, the officer or employee involved must promptly apprise the designated agency ethics official of the agreement.

§ 2634.804 Evidence of compliance.

(a) *Requisite evidence of action taken.*

(1) For ethics agreements of nominees to positions requiring the advice and consent of the Senate, evidence of any action taken to comply with the terms of such ethics agreements must be submitted to the designated agency ethics official. The designated agency ethics official will promptly notify the Office of Government Ethics and the Senate confirmation committee of actions taken to comply with the ethics agreement.

(2) In the case of incumbents and all other reporting individuals, evidence of any action taken to comply with the terms of an ethics agreement must be sent promptly to the designated agency ethics official.

(b) The following materials and any other appropriate information constitute evidence of the action taken:

(1) *Recusal.* A copy of a recusal statement listing and describing the specific matters or subjects to which the recusal applies, a statement of the method by which the agency will enforce the recusal. A recusal statement is not required for a general affirmation that the filer will comply with ethics laws.

Example: A new employee of a Federal safety board owns stock in Nationwide Airlines. She has entered into an ethics agreement to