

§ 401.4

17 CFR Ch. IV (4-1-03 Edition)

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, a financial institution shall not be regarded as acting as a government securities broker within the meaning of this section if it:

(i) Effects fewer than 500 government securities brokerage transactions (other than transactions described in §§ 401.1 or 401.2) per year; or

(ii) Effects all such transactions (other than transactions described in §§ 401.1 or 401.2) pursuant to a contractual or other arrangement with one or more government securities brokers or dealers each of which has registered or filed notice pursuant to section 15C(a)(1) of the Act (15 U.S.C. 78o-5(a)(1)) (each referred to as the “transacting government securities broker or dealer”) under which the transacting government securities broker or dealer will offer securities services on or off the premises of the financial institution, provided that:

(A) The transacting government securities broker or dealer is clearly identified to customers as the person performing the securities services;

(B) Financial institution employees perform only clerical and ministerial or order-taking functions in connection with government securities transactions unless such employees are associated persons (as defined in § 400.3(c) of this chapter) or registered representatives of the transacting government securities broker or dealer;

(C) Financial institution employees do not receive compensation for government securities activities other than clerical or ministerial functions unless such employees are associated persons (as defined in § 400.3(c) of this chapter) or registered representatives of the transacting government securities broker or dealer; and

(D) Such services are provided on a fully disclosed basis by the transacting government securities broker or dealer, i.e., the transacting government securities broker or dealer receives and maintains all required information concerning each customer, its trading and account.

(b)(1) A financial institution that relies on the exemption contained in paragraph (a) of this section is required to comply with the regulations of part

450 of this chapter concerning custodial holdings of government securities for customers.

(2) A branch or agency of a foreign bank that relies on the exemption contained in paragraph (a) of this section is in addition required to comply with § 403.5(e) of this chapter.

(c) For the purposes of this section “financial institution” includes an insured credit union, as defined in 12 U.S.C. 1752(7).

§ 401.4 Exemption for financial institutions engaged in limited government securities dealer activities.

(a) Subject to the requirements of paragraph (b) of this section, a financial institution shall be exempt from the provisions of sections 15C (a), (b), and (d) of the Act (15 U.S.C. 78o-5 (a), (b), (d)) and the regulations of this subchapter if its government securities dealer activities are limited to one or more of the following activities:

(1) Sales or purchases in a fiduciary capacity;

(2) The sale and subsequent repurchase and the purchase and subsequent resale of government securities pursuant to a repurchase or reverse repurchase agreement; and

(3) Such other activities as have been exempted by regulation under this subchapter.

(b)(1) A financial institution that relies on the exemption contained in paragraph (a) of this section is required to comply with:

(i) The regulations of part 450 of this chapter concerning custodial holdings of government securities for customers; and

(ii) Section 403.5(d) of this chapter concerning certain repurchase transactions with customers.

(2) A branch or agency of a foreign bank that relies on the exemption contained in paragraph (a) of this section is in addition required to comply with § 403.5(e) of this chapter.

(c) For the purposes of this section “financial institution” includes an insured credit union, as defined in 12 U.S.C. 1752(7).