

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Office of the Under Secretary for Domestic Finance

#### 17 CFR Part 450

RIN 1505-AA82

#### Government Securities Act Regulations: Definition of Government Securities

**AGENCY:** Office of the Under Secretary for Domestic Finance, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Treasury ("Treasury," "We," or "Us") is publishing for comment a proposed amendment to the regulations issued under the Government Securities Act of 1986, as amended ("GSA"). Section 208 of the Gramm-Leach-Bliley Act amended the definition of the term "government securities" in the Securities Exchange Act of 1934, as it applies to a bank, to include qualified Canadian government obligations. To conform to this change in definition, we are proposing a technical amendment to Part 450 of the GSA regulations governing depository institutions' government securities holdings in custody for customers.

**DATES:** Submit comments on or before March 28, 2001.

**ADDRESSES:** You may send us hard copy comments at: Government Securities Regulations Staff, Bureau of the Public Debt, 999 E Street NW., Room 315, Washington, DC 20239-0001. You may also send us comments by e-mail at govsecreg@bpd.treas.gov. When sending comments by e-mail, please use an ASCII file format and provide your full name and mailing address. Comments received will be available for downloading from the Internet and for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. To visit the library, call (202) 622-0990 for an

appointment. This proposed amendment is also available for downloading from Public Debt's web site at the following address: [www.publicdebt.treas.gov](http://www.publicdebt.treas.gov).

**FOR FURTHER INFORMATION CONTACT:** Lori Santamorena (Executive Director), Lee Grandy (Associate Director), or Deidere Brewer (Government Securities Specialist), Bureau of the Public Debt, Government Securities Regulations Staff, (202) 691-3632 or e-mail us at govsecreg@bpd.treas.gov.

**SUPPLEMENTARY INFORMATION:** This proposed rule deals with the recent change in definition of "government securities" in the Securities Exchange Act of 1934 ("the Exchange Act") to include certain Canadian government obligations, as applied to banks. This statutory change affects two groups of GSA regulations—Subchapter A (17 CFR Parts 400–449), issued under Title I of the GSA, and Subchapter B (17 CFR Part 450), issued under Title II of the GSA—which we discuss separately. Because the statutory change is picked up automatically in Subchapter A, we are not proposing any regulatory change to Subchapter A. We are proposing a technical and clarifying change to Subchapter B.

#### Subchapter A

Title I of the Government Securities Act of 1986<sup>1</sup> (Section 15C of the Exchange Act) requires "government securities brokers" and "government securities dealers" (which may include banks) to provide notice to their regulators and comply with the requirements prescribed by Treasury in 17 CFR, Subchapter A, Parts 400–449. Among those requirements is compliance with rules in Subchapter B (Part 450).<sup>2</sup>

Part 401 provides a series of exemptions for financial institutions. These exemptions include limited government securities brokerage and government securities dealer activities and certain repurchase transactions with customers. Thus, even if a financial institution does not provide notice as a government securities broker or dealer, it may be subject to Subchapter A by virtue of its reliance on the exemptions in Subchapter A. One of the conditions of these exemptions is

that a financial institution must comply with the requirements in Subchapter B (Part 450).

The GSA amended the Exchange Act by adding a definition of the term "government securities" at section 3(a)(42) of the Exchange Act.<sup>3</sup> In Subchapter A of the implementing regulations for the GSA,<sup>4</sup> we defined "government securities" at § 400.3(m)<sup>5</sup> as having the meaning set out in section 3(a)(42) of the Exchange Act.

Section 208 of Title II, Subtitle A of the Gramm-Leach-Bliley Act<sup>6</sup> (the "G-L-B Act") amended the definition of "government securities" in the Exchange Act by adding a new subparagraph (E) at section 3(a)(42). The amendment provides that "government securities" means "for purposes of section 15, 15C and 17A as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes of the United States." As background, section 5136 of the National Banking Act was amended as a result of the U.S. Canada Free Trade Agreement.<sup>7</sup> The legislative history shows that the U.S., in return for certain commitments made by Canada, agreed to permit U.S., Canadian and other foreign banks to deal in, underwrite, and purchase obligations backed by the Government of Canada or its political subdivisions.<sup>8</sup>

Because section 400.3(m) of the regulations currently defines "government securities" to have the meaning set out at section 3(a)(42) of the Exchange Act, the statutory change to include certain Canadian government obligations will now be automatically incorporated without requiring a technical change. Any U.S. banks that transact business in qualified Canadian government obligations, but not U.S. government securities, may now be subject to the GSA regulations (including the exemptions). U.S. banks currently transacting business in U.S. government securities are already subject to the GSA regulations. We invite comments on the impact on banks of this change in definition of the term

<sup>3</sup> 15 U.S.C. 78c(a)(42).

<sup>4</sup> 52 FR 27910 (July 24, 1987).

<sup>5</sup> 17 CFR 400.3(m).

<sup>6</sup> Gramm-Leach-Bliley Act sec. 208; Pub. L. No. 106-102, 113 Stat. 1338 (1999).

<sup>7</sup> U.S. Canada Free Trade Agreement sec. 308; Pub. L. No. 100-449, 102 Stat. 1877 (1988).

<sup>8</sup> S. Rep. No. 100-509, at 67 (1988) reprinted in 1988 U.S.C.A.N. 2395, 2462.

<sup>1</sup> Pub. L. No. 99-571, 100 Stat. 3208 (1986).

<sup>2</sup> See 17 CFR 403.5(a), (d)(1)(vi).

“government securities” to include qualified Canadian government obligations, specifically whether particular requirements in the GSA regulations would raise operational issues of which we are unaware.

### Subchapter B

As noted above, Subchapter A of the regulations requires institutions subject to Subchapter A (i.e., government securities brokers and dealers and exempt institutions) to also comply with the rules in Subchapter B. In addition, under Title II of the GSA (31 U.S.C. 3121(h), 9110) depository institutions that are not government securities brokers or dealers and that hold government securities for the account of customers must comply with the rules prescribed by Treasury in 17 CFR, Subchapter B, Part 450. Thus, there are three categories of institutions that must follow the rules in Subchapter B—(a) (as required by the rules in Subchapter A), financial institution government securities brokers and dealers and (b) (also as required by the rules in Subchapter A), exempt financial institutions, and (c) depository institutions that are not government securities brokers or dealers and that hold government securities for the account of customers.

Because two of these categories of institutions ((a) and (b)) are based on one statutory authority (Title I of the GSA), and the third category ((c)) is based on another statutory authority (Title II of the GSA), we are proposing a revised regulatory definition of “government securities” at section 450.2(e) that takes this into account. Proposed § 450.2(e)(1), the definition

applicable to institutions that are required under the rules in Subchapter A to follow the Subchapter B rules, will include qualified Canadian government obligations. Proposed § 450.2(e)(2) of the definition is narrower and does not include qualified Canadian government obligations. It would be applicable to institutions that are required to follow the Subchapter B rules solely because of the requirements of Title II of the GSA.

Therefore, for institutions required to follow the rules in Subchapter B as a result of the requirements of Subchapter A, proposed § 450.2(e)(1)(i) and (e)(1)(ii) would extend the requirements of Subchapter B to institutions holding qualified Canadian government obligations for customer accounts.

Based on our consultation with staff of the bank regulatory agencies, we understand this proposed change in the definition of “government securities” would not have a material impact on banks. They are not aware of situations in which banks in the U.S. are handling qualified Canadian government obligations for customers. Therefore, we believe this conforming amendment would not have more than a minimal effect on banks.

The G–L–B Act was enacted on November 12, 1999. The effective date of Subtitle A of Title II of the G–L–B Act is 18 months after enactment, or May 12, 2001. Accordingly, after we consider all comments received in response to this proposed amendment, we intend to issue a final amendment to the GSA regulations that will be effective May 12, 2001.

### Special Analysis

The proposed rule would only make a technical amendment to the GSA regulations to conform to a change in definition of the term “government securities” made by the G–L–B Act. Based on the very limited impact of the proposed amendment, it is our view that the proposed regulations are not a “significant regulatory action” for the purposes of Executive Order 12866.

For the same reasons, we certify under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) that the proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis is not required.

### List of Subjects in 17 CFR Part 450

Banks, banking, Government securities, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, we propose to amend 17 CFR Part 450 to read as follows:

### PART 450—CUSTODIAL HOLDINGS OF GOVERNMENT SECURITIES BY DEPOSITORY INSTITUTIONS

1. The authority citation for Part 450 is revised to read as follows:

**Authority:** Sec. 201, Pub. L. 99–571, 100 Stat. 3222–23 (31 U.S.C. 3121, 9110); Sec. 101, Pub. L. 99–571, 100 Stat. 3208 (15 U.S.C. 78o–5(b)(1)(A), (b)(4), (b)(5)(B)).

2. Section 450.2 is amended by revising paragraph (e) to read as follows:

#### § 450.2 Definitions.

\* \* \* \* \*

(e) *Government securities* means:

If . . .	Then . . .
(1)(i) A depository institution is a government securities broker or dealer as defined in sections 3(a)(43) and 3(a)(44) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(43)–(44)).	“Government securities” means those obligations described in subparagraphs (A), (B), (C), or (E) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C), (E)).
(ii) A depository institution is exempt under Part 401 of this chapter from the requirements of Subchapter A.	“Government securities” means those obligations described in subparagraphs (A), (B), (C), or (E) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C), (E)).
(2) A depository institution is not a government securities broker or dealer as defined in sections 3(a)(43) and 3(a)(44) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(43)–(44)).	“Government securities” means those obligations described in subparagraphs (A), (B), or (C) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C)).

\* \* \* \* \*

Dated: February 21, 2001.

**Donald V. Hammond,**

*Acting Under Secretary, Domestic Finance.*

[FR Doc. 01–4647 Filed 2–23–01; 8:45 am]

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### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 3

RIN 2900–AJ44

#### Well-Founded Claims

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** In a document published in the *Federal Register* at 64 FR 67528 on December 2, 1999, the Department of Veterans Affairs (VA) proposed to amend its adjudication regulations concerning a claimant’s statutory responsibility to support his or her