DEPARTMENT OF THE TREASURY

Order Regarding the Collateral Registered Government Securities Brokers and Dealers Must Pledge When Borrowing Customer Securities


Title I of the Government Securities Act of 1986 ("GSA") amended the Securities Exchange Act of 1934 ("Exchange Act") by adding § 15C, authorizing the Secretary of the Treasury ("Secretary") to promulgate regulations concerning the financial responsibility, protection of customer securities and balances, recordkeeping and reporting of government securities brokers and dealers. Section 15C(a)(5) of the Exchange Act authorizes the Secretary, by rule or order, to conditionally or unconditionally exempt any government securities broker or dealer, or class of government securities brokers or dealers, from certain provisions under the GSA, or the rules thereunder, if the Secretary finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of the Exchange Act.

By this order, the Secretary will allow entities registered with the Securities and Exchange Commission ("SEC") as specialized government securities brokers and dealers ("registered government securities brokers and dealers") under § 15C(a)(2) of the Exchange Act that borrow fully paid or excess-margin government securities brokers and dealers may pledge when borrowing fully paid or excess-margin government securities from customers.

Section 403.4(e) allows the Secretary to designate by order other collateral as permissible, consistent with the "public interest, the protection of investors, and the purposes of the Act, after giving consideration to the collateral's creditworthiness." Accordingly, after giving consideration to the liquidity, volatility, market depth and location and the issuer's creditworthiness in connection with the following described types of collateral, we find an exemption to be consistent with the public interest, the protection of investors, and the purposes of the Act. The exemption will potentially increase liquidity in the government securities market and lower borrowing costs for registered government securities brokers and dealers, while maintaining the customer protection objectives of § 403.4.

Therefore, it is ordered, pursuant to § 15C(a)(5) of the Exchange Act, that registered government securities brokers and dealers may pledge, in accordance with all applicable conditions set forth below and in § 403.4 of the GSA regulations, the following types of collateral (in addition to those permitted under paragraph (e) of § 403.4) when borrowing fully paid or excess-margin government securities from customers:

1. "Government securities" as defined in § 3(a)(42)(A) and 3(a)(42)(B) of the Exchange Act.

2. "Government securities" as defined in § 3(a)(42)(C) of the Exchange Act issued or guaranteed as to principal or interest by the following corporations: (i) The Federal Home Loan Mortgage Corporation, (ii) the Federal National Mortgage Association, (iii) the Student Loan Marketing Association, or (iv) the Financing Corporation.

3. Securities issued by, or guaranteed as to principal and interest by, the following Multilateral Development Banks whose obligations are backed by the participating countries, including the U.S.: (i) The International Bank for Reconstruction and Development, (ii) the Inter-American Development Bank, (iii) the Asian Development Bank, (iv) the African Development Bank, (v) the European Bank for Reconstruction and Development, and (vi) the International Finance Corporation.

The categories of permissible collateral do not include securities that have no principal component (e.g., STRIPS).

Registered government securities brokers and dealers that pledge any of the government securities set forth above must, in addition to the notice requirements contained in paragraph (b)(3) of SEC Rule 15c3–3 as incorporated and modified by § 403.4, include in the written agreement with the customer a notice that some of the securities being provided by the borrower as collateral under the agreement may not be guaranteed by the United States.


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Under Secretary, Domestic Finance.

[FR Doc. 04–13129 Filed 6–10–04; 8:45 am]