

1 Department of Commerce

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3 Adopted Rules Relating to Brokerage Services by Financial

4 Institutions

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6 Rule as Adopted

7 2875.1590 BANKS, SAVINGS INSTITUTIONS, AND SAVINGS AND LOAN

8 ASSOCIATIONS.

9 Subpart 1. Licensing requirement. The term

10 "broker-dealer" as defined in Minnesota Statutes, section

11 80A.14, subdivision 4 includes a bank, savings institution, or

12 savings and loan association that:

13 A. solicits brokerage business for which it receives

14 transaction-related compensation, unless the bank, savings

15 institution, or savings and loan association enters into a

16 contractual or other arrangement with a broker-dealer licensed

17 under Minnesota Statutes, chapter 80A pursuant to which the

18 broker-dealer will offer brokerage services on or off the

19 premises of the bank, savings institution, or savings and loan

20 association provided that:

21 (1) the broker-dealer is clearly identified as

22 the person performing the brokerage services;

23 (2) bank, savings institution, or savings and

24 loan association employees perform only clerical and ministerial

25 functions in connection with brokerage transactions unless the

26 employees are licensed agents pursuant to Minnesota Statutes,

27 chapter 80A;

28 (3) bank, savings institution, or savings and

29 loan association employees do not receive, directly or

30 indirectly, compensation for any brokerage activities unless the

31 employees are licensed agents pursuant to Minnesota Statutes,

32 chapter 80A; and

33 (4) the services are provided by the

34 broker-dealer on a basis in which all customers are fully

35 disclosed;

1 B. directly or indirectly receives transaction
2 related compensation for providing brokerage services for trust,
3 managing agency, or other accounts to which the bank, savings
4 institution, or savings and loan association provides advice;
5 provided, however, that this item does not apply if the bank,
6 savings institution, or savings and loan association executes
7 transactions through a broker-dealer licensed under Minnesota
8 Statutes, chapter 80A and:

9 (1) each account independently chooses the
10 broker-dealer through which execution is effected;

11 (2) bank, savings institution, or savings and
12 loan association employees do not receive, directly or
13 indirectly, compensation for any brokerage activities or
14 compensation based upon the number of accounts choosing to use
15 the broker-dealer; and

16 (3) the brokerage services are provided by the
17 broker-dealer on a basis in which all customers are fully
18 disclosed;

19 C. deals in or underwrites securities.

20 Subp. 2. **Applicability.** This part shall not apply to any
21 bank, savings institution, or savings and loan association that
22 engages in one or more of the following activities only:

23 A. effects transactions in commercial paper, bankers'
24 acceptances, or commercial bills;

25 B. effects transactions for the investment portfolio
26 of affiliated companies;

27 C. effects transactions as part of a program for the
28 investment or reinvestment of deposit funds into any no-load
29 open-end investment company registered pursuant to the
30 Investment Company Act of 1940 that attempts to maintain a
31 constant net asset value per share or has an investment policy
32 calling for investment of at least 80 percent of its assets in
33 debt securities maturing in 13 months or less;

34 D. effects transactions as part of any bonus,
35 profit-sharing, pension, retirement, thrift, savings, incentive,
36 stock purchase, stock ownership, stock appreciation, stock

1 option, dividend reinvestment, or similar plan for employees or
2 shareholders of an issuer or its subsidiaries; or

3 E. effects transactions pursuant to Minnesota
4 Statutes, section 80A.15, subdivision 2, paragraph (g) and the
5 rules adopted under that provision.

6 Subp. 3. Exemptions. The commissioner, upon written
7 request, or upon a motion, ~~may~~ shall exempt a bank, savings
8 institution, or savings and loan association, either
9 conditionally or on specific terms and conditions, where the
10 commissioner determines that the activities of the bank, savings
11 institution, or savings and loan association are not within the
12 intended meaning and purpose of this part.

13 Subp. 4. Transaction related compensation. For the
14 purposes of this part, the term "transaction related
15 compensation" means monetary profit in excess of cost recovery
16 for providing brokerage execution services.