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PL 99-571 (HR 2032)
October 28, 1986

An Act Entitled the Government Securities Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE. -- This Act (*15 USC 78a note*) may be cited as the "Government Securities Act of 1986".

(b) FINDINGS. -- The Congress finds that transactions in government (*15 USC 78o-5 note*) securities are affected with a public interest which makes it necessary --

(1) to provide for the integrity, stability, and efficiency of such transactions and of matters and practices related thereto;

(2) to impose adequate regulation of government securities brokers and government securities dealers generally; and

(3) to require appropriate financial responsibility, recordkeeping, reporting, and related regulatory requirements; in order to protect investors and to insure the maintenance of fair, honest, and liquid markets in such securities.

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TITLE I -- GOVERNMENT SECURITIES BROKERS AND DEALERS

SEC. 101. ESTABLISHMENT OF GOVERNMENT SECURITIES REGULATORY AUTHORITY.

The Securities Exchange Act (*15 USC 78a*) of 1934 (hereinafter in this title referred to as "the Act") is amended by inserting after section 15B (*15 U.S.C. 78o-4*) the following new section:

"GOVERNMENT SECURITIES BROKERS AND DEALERS

"SEC. 15C. (a)(1)(A) It shall be unlawful for any government securities broker or government securities dealer (other than a registered broker or dealer of a financial institution) to make use of (15 USC 78o-5) the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer is registered in accordance with paragraph (2) of this subsection.

"(B)(i) It shall be unlawful for any government securities broker or government securities dealer that is a registered broker or dealer or a financial institution to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer has filed with the appropriate regulatory agency written notice that it is a government securities broker or government securities dealer. When a government securities broker or government securities dealer ceases to act as such it shall file with the appropriate regulatory agency a written notice that it is no longer acting as a government securities broker or government securities dealer.

"(ii) Such notices shall be in such form and contain such information concerning a government securities broker or government securities dealer that is a financial institution and any persons associated with such government securities broker or government securities dealer as the Board of Governors of the Federal Reserve System shall, by rule, after consultation with each appropriate regulatory agency (including the Commission), prescribe as necessary or appropriate in the public interest or for the protection of investors. Such notices shall be in such form and contain such information concerning a government securities broker or government securities dealer that is a registered broker or dealer and any persons associated with such government securities broker or government securities dealer as the Commission shall, by rule, prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(iii) Each appropriate regulatory agency (other than the Commission) shall make available to the Commission the notices which have been filed with it under this subparagraph, and the Commission shall maintain and make available to the public such notices and the notices it receives under this subparagraph.

"(2) A government securities broker or a government securities dealer subject to the registration requirement of paragraph (1)(A) of this subsection may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such government securities broker or government securities dealer and any persons associated with such government securities broker or government securities dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within 45 days of the date of filing of such application (or within such longer period as to which the applicant consents), the Commission shall --

"(i) by order grant registration, or

"(ii) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within 120 days of the date of the filing of the application for registration. At the conclusion of such proceedings, the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents.

The Commission shall grant the registration of a government securities broker or a government securities dealer if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (c) of this section.

"(3) Any provision of this title (other than section 5 or paragraph (1) of this subsection) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any government securities broker or government securities dealer registered or having filed notice under paragraph (1) of this subsection or any person acting on behalf of such government securities broker or government securities dealer, irrespective of any use

of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(4) The Secretary of the Treasury (hereinafter in this section referred to as the 'Secretary'), by rule or order, upon the Secretary's own motion or upon application, may conditionally or unconditionally exempt any government securities broker or government securities dealer, or class of government securities brokers or government securities dealers, from any provision of subsection (a), (b), or (d) of this section 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 this title.

"(b)(1) The Secretary shall propose and adopt rules to effect the purposes of this title with respect to transactions in government securities effected by government securities brokers and government securities dealers as follows:

"(A) Such rules shall provide safeguards with respect to the financial responsibility and related practices of government securities brokers and government securities dealers including, but not limited to, capital adequacy standards, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the transfer and control of government securities subject to repurchase agreements and in similar transactions.

"(B) Such rules shall require every government securities broker and government securities dealer to make reports to and furnish copies of records to the appropriate regulatory agency, and to file with the appropriate regulatory agency, annually or more frequently, a balance sheet and income statement certified by an independent public accountant, prepared on a calendar or fiscal year basis, and such other financial statements (which shall, as the Secretary specifies, be certified) and information concerning its financial condition as required by such rules.

"(C) Such rules shall require records to be made and kept by government securities brokers and government securities dealers and shall specify the periods for which such records shall be preserved.

"(2) Rules promulgated and orders issued under this section shall --

"(A) be designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, liquidity, and efficiency of the market for government securities, investors, and the public interest; and

"(B) not be designed to permit unfair discrimination between customers, issuers, government securities brokers, or government securities dealers, or to impose any burden on competition not necessary or appropriate in furtherance of the purposes of this title.

"(3) In promulgating rules and issuing orders under this section, the Secretary --

"(A) may appropriately classify government securities brokers and government securities dealers (taking into account relevant matters, including types of business done, nature of securities other than government securities purchased or sold, and character of business organization) and persons associated with government securities brokers and government securities dealers;

"(B) may determine, to the extent consistent with paragraph (2) of this subsection and with the public interest, the protection of investors, and the purposes of this title, not to apply, in whole or in part, certain rules under this section, or to apply greater, lesser, or different standards, to certain classes of government securities brokers, government securities dealers, or persons associated with government securities brokers or government securities dealers;

"(C) shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers; and

"(D) shall consult with and consider the views of the Commission and the Board of Governors of the Federal Reserve System, except where the Secretary determines that an emergency exists requiring expeditious or summary action and publishes its reasons for such determination.

"(4) If the Commission or the Board of Governors of the Federal Reserve System comments in writing on a proposed rule of the Secretary that has been published for comment, the Secretary shall respond in writing to such written comment before approving the proposed rule.

"(5) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security in contravention of any rule under this section.

"(c)(1) With respect to any government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section --

"(A) The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such government securities broker or government securities dealer, if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such government securities broker or government securities dealer, or any person associated with such government securities broker or government securities dealer (whether prior or subsequent to becoming so associated), has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) (*15 USC 78o*) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) Pending final determination whether registration of any government securities broker or government securities dealer shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest or for the protection of investors. Any registered government securities broker or registered government securities dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered government securities broker or registered government securities dealer is no longer in existence or has ceased to do business as a government securities broker or government securities dealer, the Commission, by order, shall cancel the registration of such government securities broker or government securities dealer.

"(C) The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, or seeking to become associated, with a government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section or suspend for a period not exceeding 12 months or bar any such person from being associated with such a government securities broker or government securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) (*15 USC 78o*) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(2)(A) With respect to any government securities broker or government securities dealer which is not registered or required to register under subsection (a)(1)(A) of this section, the appropriate regulatory agency for such government securities broker or government securities dealer may, in the manner and for the reasons specified in paragraph (1)(A) of this subsection, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or bar from acting as a government securities broker or government securities dealer any such government securities broker or government securities dealer, and may sanction any person associated with such government securities broker or government securities dealer in the manner and for the reasons specified in paragraph (1)(C) of this subsection.

"(B) In addition, where applicable, such appropriate regulatory agency may, in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), or section 407 of the National Housing Act (12 U.S.C. 1730), enforce compliance by such government

securities broker or government securities dealer or any person associated with such government securities broker or government securities dealer with the provisions of this section and the rules thereunder.

"(C) For purposes of subparagraph (B) of this paragraph, any violation of any such provision shall constitute adequate basis for the issuance of any order under section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, or section 407(e) or 407(f) of the National Housing Act, and the customers of any such government securities broker or government securities dealer shall be deemed, respectively, 'depositors' as that term is used in section 8(c) of the Federal Deposit Insurance Act, (12 USC 1818) 'savings account holders' as that term is used in section 5(d)(3) of the Home Owners' Loan Act of 1933, (12 USC 1464) or 'insured members' as that term is used in section 407(f) of the National Housing Act. (12 USC 1730)

"(D) Nothing in this paragraph shall be construed to affect in any way the powers of such appropriate regulatory agency to proceed against such government securities broker or government securities dealer under any other provision of law.

"(E) Each appropriate regulatory agency (other than the Commission) shall promptly notify the Commission after it has imposed any sanction under this paragraph on a government securities broker or government securities dealer, or a person associated with a government securities broker or government securities dealer, and the Commission shall maintain, and make available to the public, a record of such sanctions and any sanctions imposed by it under this subsection.

"(3) It shall be unlawful for any person as to whom an order entered pursuant to paragraph (1) or (2) of this subsection suspending or barring him from being associated with a government securities broker or government securities dealer is in effect willfully to become, or to be, associated with a government securities broker or government securities dealer without the consent of the appropriate regulatory agency, and it shall be unlawful for any government securities broker or government securities dealer to permit such a person to become, or remain, a person associated with it without the consent of the appropriate regulatory agency, if such government securities broker or government securities dealer knew, or, in the exercise of reasonable care should have known, of such order.

"(d)(1) All records of a government securities broker or government securities dealer are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the appropriate regulatory agency for such government securities broker or government securities dealer as such appropriate regulatory agency deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(2) Information received by any appropriate regulatory agency or the Secretary from or with respect to any government securities broker or government securities dealer or with respect to any person associated therewith may be made available by the Secretary or the recipient agency to the Commission, the Secretary, any appropriate regulatory agency, and any self-regulatory organization.

"(e)(1) It shall be unlawful for any government securities broker or government securities dealer registered or required to register with the Commission under subsection (a)(1)(A) to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security, unless such government securities broker or government securities dealer is a member of a national securities exchange registered under section 6 (15 USC 78f) of this title or a securities association registered under section 15A (15 USC 78o-3) of this title.

"(2) The Commission, after consultation with the Secretary, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraph (1) of this subsection any government securities broker or government securities dealer or class of government securities brokers or government securities dealers specified in such rule or order.

"(f)(1) Nothing in this section except paragraph (2) of this subsection shall be construed to impair or limit the authority under any other provision of law of the Commission, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, the

Secretary of Housing and Urban Development, and the Government National Mortgage Association.

"(2) Notwithstanding any other provision of this title, the Commission shall not have any authority to make investigations of, require the filing of a statement by, or take any other action under this title against a government securities broker or government securities dealer, or any person associated with a government securities broker or government securities dealer, for any violation or threatened violation of the provisions of this section or the rules or regulations thereunder, unless the Commission is the appropriate regulatory agency for such government securities broker or government securities dealer. Nothing in the preceding sentence shall be construed to limit the authority of the Commission with respect to violations or threatened violations of any provision of this title other than this section, or the rules or regulations under any such other provision.

"(g)(1) The authority of the Secretary to issue orders and to propose and adopt rules under this section shall terminate on October 1, 1991.

"(2) All orders and rules --

"(A) which have been issued or adopted by the Secretary, and

"(B) which are in effect on the date specified in paragraph (1), shall continue in effect according to their terms."

SEC. 102. CONFORMING AMENDMENTS.

(a) DEFINITION OF EXEMPTED SECURITY. -- Paragraph (12) of section 3(a) of the Act (15 U.S.C. 78c(a)(12)) is amended to read as follows:

"(12)(A) The term 'exempted security' or 'exempted securities' includes --

"(i) government securities, as defined in paragraph (42) of this subsection;

"(ii) municipal securities, as defined in paragraph (29) of this subsection;

"(iii) any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian;

"(iv) any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with a qualified plan as defined in subparagraph (C) of this paragraph; and

"(v) such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities'.

"(B)(i) Notwithstanding subparagraph (A)(i) of this paragraph, government securities shall not be deemed to be 'exempted securities' for the purposes of section 17A (15 USC 78q-1) of this title.

"(ii) Notwithstanding subparagraph (A)(ii) of this paragraph, municipal securities shall not be deemed to be 'exempted securities' for the purposes of sections 15, 15A (15 USC 78o, 78o-3, 78q-1) (other than subsection (g)(3)), and 17A of this title.

"(C) For purposes of subparagraph (A)(iv) of this paragraph, the term 'qualified plan' means (i) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 (26 USC 401) of the Internal Revenue Code of 1954, (ii) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) (26 USC 404) of such Code, or (iii) a governmental plan as defined

in section 414(d) (*26 USC 414*) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (i), (ii), or (iii) of this subparagraph which (I) covers employees some or all of whom are employees within the meaning of section 401(c) (*26 USC 401*) of such Code, or (II) is a plan funded by an annuity contract described in section 403(b) of such Code."

(b) DEFINITION OF APPROPRIATE REGULATORY AGENCY. -- Section 3(a)(34) of the Act (*15 USC 78c*) is amended --

(1) by inserting after paragraph (F) thereof the following new paragraph:

"(G) When used with respect to a government securities broker or government securities dealer, or person associated with a government securities broker or government securities dealer:

"(i) the Comptroller of the Currency, in the case of a national bank, a bank in the District of Columbia examined by the Comptroller of the Currency, or a Federal branch or Federal agency of a foreign bank (as such terms are used in the International Banking Act of 1978); (*12 USC 3101 note*)

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, a State branch or a State agency of a foreign bank, or a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank);

"(iv) the Federal Home Loan Bank Board, in the case of a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association;

"(v) the Federal Savings and Loan Insurance Corporation, in the case of an institution insured by the Federal Savings and Loan Insurance Corporation (other than a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association);

"(vi) the Commission, in the case of all other government securities brokers and government securities dealers."; and

(2) by inserting ", and the term 'District of Columbia savings and loan association' means any association subject to examination and supervision by the Federal Home Loan Bank Board under section 8 (*12 USC 1466a*) of the Home Owners' Loan Act of 1933" before the period ending the last sentence thereof.

(c) DEFINITION OF STATUTORY DISQUALIFICATION. -- Section 3(a)(39) of such Act (*15 U.S.C. 78c(a)(39)*) is amended --

(1) in subparagraph (B) --

(A) by inserting "or other appropriate regulatory agency" after "Commission"; and

(B) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(2) in subparagraph (C) --

(A) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(B) by inserting ", an appropriate regulatory agency," after "Commission".

(d) ADDITIONAL DEFINITIONS. -- Section 3(a) of such Act (15 U.S.C. 78c(a)) is further amended by adding at the end thereof the following new paragraphs:

"(42) The term 'government securities' means --

"(A) securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States;

"(B) securities which are issued or guaranteed by corporations in which the United States has a direct or indirect interest and which are designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

"(C) securities issued or guaranteed as to principal or interest by any corporation the securities of which are designated, by statute specifically naming such corporation, to constitute exempt securities within the meaning of the laws administered by the Commission; or

"(D) for purposes of sections 15C and 17A, (15 USC 76q-1) any put, call, straddle, option, or privilege on a security described in subparagraph (A), (B), or (C) other than a put, call, straddle, option, or privilege --

"(i) that is traded on one or more national securities exchanges; or

"(ii) for which quotations are disseminated through an automated quotation system operated by a registered securities association.

"(43) The term 'government securities broker' means any person regularly engaged in the business of effecting transactions in government securities for the account of others, but does not include --

"(A) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection; or

"(B) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(44) The term 'government securities dealer' means any person engaged in the business of buying and selling government securities for his own account, through a broker or otherwise, but does not include --

"(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business;

"(B) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection;

"(C) any bank, unless the bank is engaged in the business of buying and selling government securities for its own account other than in a fiduciary capacity, through a broker or otherwise; or

"(D) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(45) The term 'person associated with a government securities broker or government securities dealer' means any partner, officer, director, or branch manager of such government securities broker or government securities dealer (or any person occupying a similar status or performing similar functions), and any other employee of such government securities broker or government securities dealer who is engaged in the management, direction, supervision, or performance of any activities relating to government securities, and any person directly or indirectly controlling, controlled by, or under common control with such government securities broker or government securities dealer.

"(46) The term 'financial institution' means (A) a bank (as such term is defined in paragraph (6) of this subsection), (B) a foreign bank, and (C) an insured institution (as such term is defined in section 401 of the National Housing Act). (12 USC 1724)

"(48) The term 'registered broker or dealer' means a broker or dealer registered or required to register pursuant to section 15 or 15B (15 USC 78o, 78o-4) of this title, except that in paragraph (3) of this subsection and sections 6 and 15A (15 USC 78f, 78o-3) the term means such a broker or dealer and a government securities broker or government securities dealer registered or required to register pursuant to section 15C(a)(1)(A) of this title."

(e) ENFORCEMENT AND DISCIPLINE. -- Section 15(b) of the Securities Exchange Act of 1934 (15 USC 78o) (15 U.S.C. 78o(b)) is amended --

(1) in paragraph (4)(A), by inserting "or with any other appropriate regulatory agency" after "Commission" the first time it appears therein;

(2) in paragraph (4)(B), by inserting in clause (ii) thereof "government securities broker, government securities dealer," after "municipal securities dealer,";

(3) in paragraph (4)(C), by striking out "or municipal securities dealer," and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer,"; and

(4) in paragraph (8) --

(A) by striking out "any broker or dealer required to register pursuant to this title" and inserting in lieu thereof "any registered broker or dealer"; and

(B) by striking out "an exempted security".

(f) NET CAPITAL. -- Section 15(c)(3) of such Act (15 U.S.C. 78o(c)(3)) is amended --

(1) by inserting "(other than a government securities broker or government securities dealer, except a registered broker or dealer)" after "dealer"; and

(2) by inserting "(except a government security)" after "exempted security".

(g) REGISTERED SECURITIES ASSOCIATIONS. -- (1) Section 15A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(f)) is amended to read as follows:

"(f)(1) Except as provided in paragraph (2) of this subsection, nothing in this section shall be construed to apply with respect to any transaction by a registered broker or dealer in any exempted security.

"(2) A registered securities association may adopt and implement rules applicable to members of such association (A) to enforce compliance by registered brokers and dealers with applicable provisions of this title and the rules and regulations thereunder, (B) to provide that its members and persons associated with its members shall be appropriately disciplined, in accordance with subsections (b)(7), (b)(8), and (h) of this section, for violation of applicable provisions of this title and the rules and regulations thereunder, (C) to provide for reasonable inspection and examination of the books and records of registered brokers and dealers, (D) to provide for the matters described

in paragraphs (b)(3), (b)(4), and (b)(5) of this section, (E) to implement the provisions of subsection (g) of this section, and (F) to prohibit fraudulent, misleading, deceptive, and false advertising.

"(3) Nothing in subsection (b)(6) or (b)(11) of this section shall be construed to permit a registered securities association to make rules concerning any transaction by a registered broker or dealer in a municipal security."

(2) Section 15A(g) of such Act (15 U.S.C. 78o-3(g)) is amended --

(A) by inserting after paragraph (3)(C) the following:

"(D) Nothing in subparagraph (A), (B), or (C) of this paragraph shall be construed to permit a registered securities association to deny membership to or condition the membership of, or bar any person from becoming associated with or condition the association of any person with, a broker or dealer that engages exclusively in transactions in exempted securities.";

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4)(A) A registered securities association may deny membership to, or condition the membership of, a government securities broker or government securities dealer if such government securities broker or government securities dealer (i) does not meet standards of financial responsibility under rules adopted pursuant to section 15C(b)(1)(A) of this title, or (ii) has engaged and there is a reasonable likelihood that it will again engage in any conduct or practice which would subject such government securities broker or government securities dealer to sanctions under section 15C(c) of this title. A registered securities association may establish procedures including examination of the books and records of government securities brokers and government securities dealers to verify compliance with the provisions of this title and the rules thereunder.

"(B) A registered securities association may bar any person from becoming associated with a member or condition the association of a person with a member (i) if such person has engaged in any conduct or practice and there is a reasonable likelihood that such person will again engage in any conduct or practice which would subject such person to sanctions under section 15C(c) of this title, or (ii) if such person does not agree to supply such association with such information with respect to its relationship and dealings with the member as may be specified in the rules of the association and to permit examination of its books and records to verify the accuracy thereof."

(h) FILING OF AND ACCESS TO DOCUMENTS. -- Section 17(c) of the Act (15 U.S.C. 78q(c)) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission or the appropriate regulatory agency may specify that documents required to be filed pursuant to this subsection with the Commission or such agency, respectively, may be retained by the originating clearing agency, transfer agent, or municipal securities dealer, or filed with another appropriate regulatory agency. The Commission or the appropriate regulatory agency (as the case may be) making such a specification shall continue to have access to the document on request."

(i) LOST AND STOLEN SECURITIES. -- Section 17(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)) is amended --

(1) in paragraph (1) by inserting "government securities broker, government securities dealer," after "municipal securities dealer,";

(2) in paragraph (1)(A), by inserting "and, in the case of government securities, to the Secretary of the Treasury" after "Commission" the second time it appears; and

(3) in paragraph (3) --

(A) by inserting "(A)" after "(3)"; and

(B) by adding the following new subparagraph:

"(B) In order to carry out the authority under paragraph (1) of this subsection, the Commission or its designee and the Secretary of the Treasury shall enter into an agreement whereby the Commission or its designee will receive, store, and disseminate information in the possession, and which comes into the possession, of the Department of the Treasury in regard to missing, lost, counterfeit, or stolen securities."

(j) BURDEN ON COMPETITION; PUBLIC RULEMAKING REQUIREMENTS. -- Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended --

(1) by inserting "and the Secretary of the Treasury" after "Commission" each place it appears in paragraph (2);

(2) by inserting "or the Secretary's" after "Commission's" in paragraph (2);

(3) by inserting "and the Secretary" after "Commission" the first, second, and fourth places it appears in paragraph (3); and

(4) by inserting "or the Secretary" after "Commission" the third place it appears in paragraph (3).

(k) JUDICIAL REVIEW OF ORDERS AND RULES. -- Section 25(d)(1) of the Act (15 U.S.C. 78y(d)(1)) is amended by inserting before the period at the end thereof the following: "and the Secretary of the Treasury insofar as he is acting pursuant to section 15C of this title".

(l) INVESTMENT COMPANIES: DISQUALIFICATIONS. -- Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended --

(1) by striking out paragraphs (1) and (2) of subsection (a) and inserting in lieu thereof the following:

"(1) any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, (7 USC 1) or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or";

(2) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(2); and

(3) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(3).

(m) INVESTMENT ADVISERS: DISQUALIFICATIONS. -- Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended --

(1) by striking out "or fiduciary" in subsection (e)(2)(B) and inserting in lieu thereof "government securities broker, government securities dealer, fiduciary, or entity or person required to be registered under the Commodity Exchange Act";

(2) by striking out paragraph (3) of subsection (e) and inserting in lieu thereof the following:

"(3) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act (7 USC 1) or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security."; and

(3) by inserting "the Commodity Exchange Act," after "this title," in paragraph (4) of subsection (e).

SEC. 103. STUDIES AND RECOMMENDATIONS WITH RESPECT TO EXTENSION OF TREASURY AUTHORITY.

(a) TASK FORCE RECOMMENDATION. -- The Secretary of the Treasury, together with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall evaluate the effectiveness of the rules promulgated pursuant to section 15C (15 USC 78o-5 note) of the Securities Exchange Act of 1934 in effecting the purposes of such Act, and shall submit to the Congress, not later than October 1, 1990, their recommendation with respect to the extension of the Secretary's authority under such section and such other recommendations as they may consider appropriate.

(b) COMPTROLLER GENERAL STUDY AND RECOMMENDATIONS. -- The Comptroller General shall conduct a study of the regulation of government securities brokers and government securities dealers pursuant to section 15C of the Securities Exchange Act of 1934 and the effectiveness of the amendments made by this Act in protecting investors and in effecting the purposes described in section 15C(b)(2), and shall submit to the Congress, not later than March 31, 1990, his recommendations with respect to the extension of the Secretary's authority under such section and such other recommendations as he may consider appropriate.

SEC. 104. STUDY OF TRADING SYSTEM FOR GOVERNMENT SECURITIES.

(a) REQUIREMENTS FOR STUDY. -- The Comptroller General, in coordination and consultation with the Board of Governors of the Federal Reserve, the Secretary of the Treasury, and the Commission, shall study the nature of the current trading system in the secondary market for government securities, including --

- (1) the extent and form of availability of bids and asks for government securities transactions on a real time basis;
- (2) the extent and form of the availability of government securities brokers' services in the secondary market; and
- (3) whether quotations for government securities and the services of government securities brokers are available on terms which are consistent with the public interest, the protection of investors, and the purposes of this title.

(b) PUBLIC HEARINGS. -- In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(c) REPORT AND RECOMMENDATIONS. -- The report of the Comptroller General shall be submitted to the Congress no later than 6 months after the date of enactment of this Act.

SEC. 105. SECURITIES AND EXCHANGE COMMISSION LEGISLATION STUDY.

(a) GENERAL REQUIREMENTS. -- The Securities and Exchange Commission is authorized and directed to make a study of the use of the exemption contained in section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) for securities guaranteed by banks, and of the use of insurance policies to guarantee securities. Such study shall include an analysis of --

- (1) the impact of the guarantee provision of such section 3(a)(2) on investor protection and the public interest;

(2) the impact of the guarantee provision of such section 3(a)(2) on competition between banks and insurance companies and between domestic and foreign guarantors;

(3) whether, and under what circumstances, debt securities guaranteed by insurance policies should be exempt from registration under the Securities Act of 1933; (*15 USC 77a*)

(4) an analysis of the impact of such an exemption on investor protection and the public interest; and

(5) such other issues as the Commission deems relevant.

(b) CONSULTATION. -- In conducting the study required by subsection (a), the Commission shall consult with and solicit comment from the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and other Federal bank regulatory agencies.

(c) REPORT. -- The Securities and Exchange Commission shall, on or before 6 months after the date of enactment of this Act, submit a report to the Congress containing --

(1) the results of its study under this section;

(2) the actions it proposes to take on the basis of its study; and

(3) recommendations for legislation.

TITLE II -- DEPOSITORY INSTITUTIONS

SEC. 201. DEPOSITORY INSTITUTIONS.

(a) AMENDMENT TO CHAPTER 31 OF TITLE 31, UNITED STATES CODE. -- Section 3121 of title 31, United States Code, is amended by adding at the end thereof the following:

"(h)(1) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations issued under this chapter, and obligations otherwise issued or guaranteed as to principal or interest by the United States. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(2) Violation of a regulation prescribed under paragraph (1) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) (*12 USC 1818*) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) (*12 USC 1464*) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) (*12 USC 1730*) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. (*12 USC 1786*) Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration Board.

"(3) Nothing in this subsection shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(4) The Secretary shall, prior to adopting regulations under this subsection, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this subsection, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this subsection.

"(5) As used in this subsection --

"(A) 'depository institution' has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) (*12 USC 461*) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

"(B) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934. (*15 USC 78c*)

"(C) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(D) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934."

(b) AMENDMENTS TO CHAPTER 91 OF TITLE 31, UNITED STATES CODE. -- Chapter 91 of title 31, United States Code, is amended --

(1) by adding at the end thereof the following:

"Section 9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers. (*31 USC 9110*)

"(a) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations that are government securities described in subparagraph (B) or (C) of section 3(a)(42) of the Securities Exchange Act of 1934. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(b) Violation of a regulation prescribed under subsection (a) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) (*12 USC 1818*) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) (*12 USC 1464*) of the National Housing Act, or section 206(e) or 206(f) (*12 USC 1730*) of the Federal Credit Union Act. (*12 USC 1786*) Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration.

"(c) Nothing in this section shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(d) The Secretary shall, prior to adopting regulations under this section, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this section, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this section.

"(e) As used in this subsection --

"(1) 'depository institution' has the meaning stated in clauses (i) through (vi) of subparagraph 19(b)(1)(A) of the Federal Reserve Act (*12 USC 461*) and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978). (*12 USC 3101 note*)

"(2) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act

of 1934.

"(3) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(4) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934."; and

(2) by adding at the end of the chapter analysis the following:

"9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers."

TITLE III -- TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 301. TRANSITIONAL AND SAVINGS PROVISIONS.

(a) EFFECT ON PENDING ADMINISTRATIVE PROCEEDINGS. -- The provisions of this Act (*15 USC 78o-5 note*) shall not affect any proceedings pending on the effective date of this Act.

(b) EFFECT ON PENDING JUDICIAL PROCEEDINGS. -- The provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and in all such suits, proceedings shall be and, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) DISCRETION OF THE FEDERAL RESERVE BANK OF NEW YORK. -- Nothing in this Act shall be construed to limit or impair the discretion or authority of the Federal Reserve Bank of New York to require reports or establish terms and conditions in connection with the Bank's relationship with any government securities broker or government securities dealer, including a primary dealer.

(d) JURISDICTION OF THE COMMODITY FUTURES TRADING COMMISSION. -- Nothing in this Act affects the jurisdiction of the Commodity Futures Trading Commission as set forth in the Commodity Exchange Act (*7 USC 1*) over trading of commodity futures contracts and options on such contracts involving government securities.

TITLE IV -- EFFECTIVE DATES

SEC. 401. GENERAL EFFECTIVE DATES.

Except as provided in section 402, this Act and the amendments made by this Act (*15 USC 78o-5 note*) shall take effect 270 days after the date of enactment of this Act.

SEC. 402. EFFECTIVE DATE AND REQUIREMENTS FOR REGULATIONS.

Notwithstanding section 401, (*15 USC 78o-5 note*) the Secretary of the Treasury and each appropriate regulatory agency shall, within 120 days after the date of enactment of this Act, publish for notice and public comment such regulations as are initially required to implement this Act, which regulations shall become effective as temporary regulations 210 days after the date of enactment of this Act and as final regulations not later than 270 days after the date of enactment of this Act.

SEC. 403. REGISTRATION DATE.

No person may continue to act as a government securities broker or government securities dealer after 270 days after the date of enactment of this Act unless such person has been registered or has provided notice to the Commission or the appropriate regulatory agency as required by the amendment made by section 101 of this Act.

Approved October 28, 1986.

LEGISLATIVE HISTORY -- H.R. 2032 (S. 1416):

HOUSE REPORTS: No. 99-258 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 99-426 accompanying S. 1416 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD: Vol. 131 (1985): Sept. 17, considered and passed House. Vol. 132 (1986): Sept. 16, considered and passed Senate, amended, in lieu of S. 1416. Oct. 6, House concurred in Senate amendments with an amendment. Oct. 9, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986): Oct. 28, Presidential statement.

PL 99-571, 1986 HR 2032

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