

**Federal Reserve Banks
Operating Circular No. 8**

COLLATERAL

Effective October 23, 2000

**FEDERAL RESERVE BANKS
OPERATING CIRCULAR NO. 8
Effective October 23, 2000**

COLLATERAL

(Click CTRL + section or page number to go directly to the section)

1.0 PURPOSE, SCOPE AND EFFECT OF THIS CIRCULAR.....	1
2.0 PURPOSES FOR WHICH COLLATERAL MAY BE HELD.....	1
3.0 DEFINITIONS	2
4.0 TERMS.....	3
5.0 NATIONAL COLLATERAL MONITORING & CUSTOMER SERVICE FOR CERTAIN TREASURY PROGRAMS.....	5
6.0 RIGHT TO AMEND.....	6
APPENDIX A: DEPOSITARY, FINANCIAL AGENCY, AND COLLATERAL AGREEMENT	7
APPENDIX B: RESOLUTION AUTHORIZING EXECUTION OF DEPOSITARY, FINANCIAL AGENCY, AND COLLATERAL AGREEMENT	9

1.0 PURPOSE, SCOPE AND EFFECT OF THIS CIRCULAR

- 1.1** This **Collateral Operating Circular** (“Circular”) specifies, in **Section 2**, the purposes for which the Federal Reserve Bank of (City) (“this Reserve Bank”), in its individual capacity and as Fiscal Agent of the United States, holds collateral as custodian for the benefit of the Pledgee to which the collateral has been pledged.
- 1.2** This Circular also contains, in **Section 4**, provisions under which this Reserve Bank holds collateral in definitive form for the purposes specified in **Subsections 2.4, 2.5, 2.6, 2.7 and 2.8** of this Circular.
- 1.3** By requesting this Reserve Bank to hold collateral as custodian for the benefit of a Pledgee, a Pledgor agrees to accept and be bound by all the terms of this Circular, any other applicable Reserve Bank operating circulars, and all applicable Treasury regulations and other instructions, such as those contained in the Treasury Financial Manual (TFM), as such documents may be amended from time to time.
- 1.4** Nothing contained in this Circular shall be construed as restricting the statutory authority of the Secretary of the Treasury, or his designee (the “Secretary”), to direct this Reserve Bank to provide fiscal agency and depository services. In the event of any conflict or inconsistency between the terms of this Circular and any directions from the Secretary, the Secretary’s directions shall govern.
- 1.5** In the event of any conflict or inconsistency between this Circular and a Treasury regulation or other operating circular issued by this Reserve Bank regarding collateral held by this Reserve Bank as custodian, such Treasury regulation or other operating circular shall govern. Title 31 CFR Part 202 incorporates by reference the terms of this Circular and provides that the terms of this Circular are binding on financial institutions electing to serve as Depositories and Financial Agents of the Federal Government.
- 1.6** Each Federal Reserve Bank has issued an operating circular identical to this Circular.

2.0 PURPOSES FOR WHICH COLLATERAL MAY BE HELD

This Reserve Bank holds collateral as custodian for the following purposes:

- 2.1** Pledged to this Reserve Bank or another Federal Reserve Bank to secure repayment of an advance made to the Pledgor or to secure repayment of any other indebtedness (including intraday or overnight overdrafts and any penalties and fees thereon) of the Pledgor to a Federal Reserve Bank. See this Reserve Bank’s Operating Circular 10.
- 2.2** Pledged to secure a deposit of funds of a public entity (including a state, municipality or other political subdivision). See this Reserve Bank’s Operating Circular 7 and Appendix C thereto.

- 2.3 Pledged to a public official to qualify an institution to exercise trust powers. See this Reserve Bank's Operating Circular 7 and Appendix C thereto.
- 2.4 Pledged to secure bankruptcy funds on deposit with the Pledgor pursuant to 11 U.S.C. §345 and 31 CFR Parts 225 (formerly Treasury Circular 154) and 380, each as amended from time to time.
- 2.5 Pledged to secure balances held by the Pledgor in a Treasury Tax and Loan account pursuant to 31 CFR Parts 203 (formerly Treasury Circular 92) and 380, as amended from time to time. See this Reserve Bank's Operating Circular 9.
- 2.6 Pledged as security in lieu of a surety or sureties on a penal or other bond pursuant to 31 CFR Parts 225 (formerly Treasury Circular 154) and 380, as amended from time to time.
- 2.7 Pledged to secure revenues and funds of the United States and funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents or employees, held by the Pledgor pursuant to 31 CFR Parts 202 (formerly Treasury Circular 176) and 380, as amended from time to time.
- 2.8 Pledged for such other purposes as this Reserve Bank or the Secretary may designate.

3.0 DEFINITIONS

For purposes of **Sections 4 and 5** of this Circular, the following definitions apply:

- 3.1 **"Collateral"** means the property, including securities in definitive form only, in which the Pledgor has granted a security interest to the Pledgee.
- 3.2 **"National Customer Service Area"** means the centralized collateral monitoring and customer service area at the Federal Reserve Bank of St. Louis (FRB St. Louis). In this regard, FRB St. Louis acts as a fiscal agent of the United States.
- 3.3 **"Pledgee"** means the United States or another entity to which Collateral is pledged.
- 3.4 **"Pledgor"** means an entity that has pledged Collateral held in a Restricted Account.
- 3.5 **"Restricted Account"** means an account at a Federal Reserve Bank (i) used to hold Collateral; or (ii) in which is recorded the receipt of an advice of custody evidencing that Collateral is held by or for the Pledgor subject to the security interest of the Pledgee.

4.0 TERMS

4.1 The following provisions set forth terms pursuant to which this Reserve Bank holds Collateral in a Restricted Account for the purposes specified in Subsections 2.4, 2.5, 2.6, 2.7 and 2.8 of this Circular. Additional terms, as set forth in Treasury regulations and related documentation available from this Reserve Bank, may also apply.

4.2 The Pledgor warrants and agrees that:

- (a) it is authorized under its charter and bylaws or similar chartering documents and under the laws of its chartering authority to grant to the Pledgee the security interest in the Collateral, and such grant of the security interest does not and will not violate the terms of any lien or pledge agreement, any other agreement or any law, regulation, instrument, judgment or decree binding on the Pledgor or the Collateral;
- (b) it is authorized under its charter and bylaws or similar chartering documents and under the laws of its chartering authority to accept and agree to be bound by this Circular, and such acceptance and agreement does not and will not violate the terms of any other agreement or applicable law;
- (c) it has sufficient rights in the Collateral to grant to the Pledgee the security interest in the Collateral and, as of the time of the grant to the Pledgee of the security interest, and except as to interests Pledgor identifies in writing to this Reserve Bank at that time, each part of the Collateral is free and clear from any other assignment, security interest, pledge, lien or encumbrance, including any financing statement or other document filed in any public office, that is superior to the claim of the Pledgee; and thereafter the Pledgor will not assign, pledge, encumber or otherwise transfer any interest in, nor create or suffer the creation of any lien against, any of the Collateral without the prior written approval of the Pledgee or its fiscal agent;
- (d) Collateral may be used to satisfy any claim which the Pledgee has against the Pledgor;
- (e) it will duly execute and deliver financing statements and such instruments and documents, and do such acts and things, as the Pledgee or its fiscal agent may at any time reasonably request in order to enforce, perfect and protect its security interest in the Collateral and its rights and remedies with respect to the Collateral, and upon the request of the Pledgee or this Reserve Bank, it will promptly reimburse the Pledgee or this Reserve Bank for any expense incurred with respect to any item of Collateral, including perfecting or maintaining perfection of the Pledgee's security interest, and assembling, transporting, liquidating Collateral whether it is held by the Pledgee, this Reserve Bank, a third-party custodian, or the Pledgor;

- (f) the information regarding the Collateral contained in all forms or other statements given to the Pledgee is true and complete, and the Pledgor will immediately notify this Reserve Bank of any change in such information;
 - (g) it will allow the Pledgee or this Reserve Bank to inspect all records of the Pledgor relating to the Collateral and to make and take away copies of such records; and
 - (h) it will promptly notify this Reserve Bank of any claim, action or proceeding affecting title to any portion of the Collateral, and, at the request of the Pledgee or this Reserve Bank, appear in and defend, at the Pledgor's expense, any such action or proceeding.
- 4.3** If the Pledgor fails to perform any covenant, duty or agreement in accordance with its terms, the Pledgee or this Reserve Bank may, but shall not be obligated to, perform or attempt to perform such covenant, duty or agreement on behalf of the Pledgor, and any amount expended by the Pledgee or this Reserve Bank in such performance or attempted performance shall at the request of the Pledgee or this Reserve Bank be promptly reimbursed by the Pledgor.
- 4.4** Regarding the shipment of Collateral:
- (a) The Pledgor bears the entire risk of loss of or damage to Collateral in transit to and from this Reserve Bank.
 - (b) This Reserve Bank does not maintain insurance on shipments of Collateral which it makes except for limited mail insurance on shipments of Collateral consisting of securities that are transferable by delivery, at values determined by this Reserve Bank and at the expense of the party on whose behalf the shipment is made. This Reserve Bank does not maintain insurance on Collateral which it or another custodian holds.
 - (c) All postage, insurance costs and other out-of-pocket expenses incurred by this Reserve Bank in the shipment of Collateral on behalf of a party will be the responsibility of that party. The party on whose behalf expenses are incurred by this Reserve Bank authorizes this Reserve Bank to debit such party's, or its designated correspondent's, account for all such expenses.
- 4.5** This Reserve Bank assumes no liability hereunder except for its performance of the obligations provided in this Circular. This Reserve Bank is responsible only for the exercise of that degree of care with respect to the Collateral in its custody as it exercises with respect to its own property. The Pledgor indemnifies this Reserve Bank for any claims of other parties with respect to Collateral held by this Reserve Bank as custodian.

- 4.6** Unless otherwise agreed in writing, this Reserve Bank is not obligated to perform or not perform any act with respect to Collateral. In particular, but not exclusively, this Reserve Bank has no obligation to:
- (a) act as escrow agent or in any other capacity not expressly provided for in this Circular;
 - (b) determine the validity of the pledge of Collateral by the Pledgor to the Pledgee, including whether any required bond, pledge or security agreement has been executed;
 - (c) pay assessments as provided under state or local law; or
 - (d) inquire into the existence or continuance of the powers or authority of a public official who is the Pledgee or is acting on behalf of the Pledgee or the successors in office to any person represented to the Reserve Bank as authorized to act on behalf of the Pledgee. However, the Reserve Bank may require a certificate from the proper authority showing that the public official, or any person represented to the Reserve Bank as authorized to act on behalf of the Pledgee, is and continues to be so authorized.

5.0 NATIONAL COLLATERAL MONITORING & CUSTOMER SERVICE FOR CERTAIN TREASURY PROGRAMS

The National Customer Service Area (“NCSA”) monitors Collateral pledged under the Treasury, Tax and Loan (“TT&L”) program (see 31 CFR Parts 203 and 380 Circular 9) and Collateral pledged under 31 CFR Parts 202 (the Circular 176 program) and 380. Collateral pledged to secure funds under these programs is held by the Pledgor’s local Federal Reserve Bank (i.e., this Reserve Bank), which acts as fiscal agent of the United States. A financial institution that desires to serve as a Depositary and Financial Agent of the Federal Government within the meaning of 31 CFR Part 202 must submit to the NCSA a properly executed Depositary, Financial Agency, and Collateral Agreement (Appendix A) and Resolution Authorizing Execution of the Depositary, Financial Agency, and Collateral Agreement (Appendix B). The Treasury may direct the NCSA to assume centralized monitoring and customer service responsibilities for Collateral pledged for other purposes (e.g., 31 CFR Parts 225 (the Circular 154 program) and 380).

5.1 AMOUNT TO BE COLLATERALIZED UNDER 31 CFR PARTS 202 (CIRCULAR 176) AND 380.

For Collateral pledged under 31 CFR Parts 202 and 380, the Pledgee will notify the NCSA of the amount a Pledgor must collateralize. The NCSA will provide the Pledgee monthly statements reflecting the amount to be collateralized by each Pledgor and the actual Collateral value pledged. The NCSA will release excess Collateral upon the Pledgor’s request, but will not release Collateral or proceeds if it would result in a Collateral deficiency or if the Collateral is needed for other Treasury purposes.

5.2 COLLATERAL VALUE MONITORING.

The NCSA will monitor the total value of Collateral pledged under these Treasury programs throughout the day based upon information provided by the Federal Reserve System's National Book-Entry System (NBES™) and Definitive Safekeeping System (DSS). For most purposes the NCSA will be the service contact point for Pledgees and Pledgors.

6.0 RIGHT TO AMEND

This Reserve Bank may amend this Circular at any time without advance notice.

APPENDIX A: DEPOSITARY, FINANCIAL AGENCY, AND COLLATERAL AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, WHEREAS, the undersigned, a Depositary and Financial Agent of the government under the general designation provided in 31 CFR Part 202 (formerly Treasury Circular 176), desires to be authorized by the Secretary of the Treasury to perform certain banking services requested by a Government agency; and

WHEREAS, such authorization requires, and is contingent upon, the execution by the undersigned of a "Depositary, Financial Agency, and Collateral Agreement" in such form as the Secretary of the Treasury shall prescribe, and the giving of satisfactory security, by the pledge of collateral or otherwise, in accordance therewith.

NOW, THEREFORE, in consideration of the foregoing facts, the undersigned agrees as follows:

1. THE UNDERSIGNED HEREBY AGREES to perform such banking services for the Government (including, but not by way of limitation, any agency or corporation owned or controlled by the Government, and any officer, agent, or employee thereof while acting in his official capacity), and faithfully discharge such duties, as may now or hereafter from time to time be required by the Secretary of the Treasury in accordance with 31 CFR Parts 202 and 380, other Treasury instructions, and the Federal Reserve Banks' Operating Circular 8.

2. THE UNDERSIGNED FURTHER AGREES, for the purpose of insuring and guaranteeing the faithful performance of all such services and discharge of all such duties, to pledge and at all times while designated as above set forth, maintain the pledge of collateral security of the classes described, and under the terms and conditions set forth, in 31 CFR Parts 202 and 380, other Treasury instructions, and the Federal Reserve Banks' Operating Circular 8, which collateral security shall be in such amount as may from time to time be required by the Secretary of the Treasury, and such collateral, and any addition thereto or substitution therefore, shall be deposited with the Treasurer of the United States or with any Federal Reserve Bank or Branch thereof acting as fiscal agent of the United States, as authorized or designated by the Secretary of the Treasury.

3. THE UNDERSIGNED FURTHER AGREES that, in the event of its failure to pay, when due, the whole or any part of the funds deposited with the undersigned, or in the event of the failure for any reason of the Government or other appropriate person or organization to receive promptly funds to be transmitted or otherwise handled by the undersigned in the performance of its duties as a Depositary and Financial Agent of the Government, or in the event that the undersigned shall otherwise violate or fail to perform any of the terms of this agreement, or in the event of the insolvency of the undersigned, or the undersigned shall be closed for business by law or by proper corporate action, or in the event that a receiver, or conservator, or liquidator or any other officer shall be appointed for the purpose of terminating the business of the undersigned, the Secretary of the Treasury, without prior notice or demand, through such agents as he may designate for the purpose, may forthwith redeem or sell the pledged collateral, and any addition thereto or substitution therefore, or any part thereof, at either public or private sale or sales, and apply the proceeds of such redemption or sale or sales, after

deducting all necessary or proper expense of such redemption or sale or sales, to the payment of funds deposited with the undersigned or the repayment of funds received by the undersigned for transmission or handling, or both, or any other indebtedness of the undersigned to the Government by reason of the above-mentioned authorization, any surplus remaining from the proceeds of the redemption or sale or sales of such securities after payment or repayment in full has been made, to be paid to the undersigned.

4. THE UNDERSIGNED FURTHER AGREES to be bound by (1) the provisions of the equal employment opportunity clause set forth in Section 202 of Executive Order No. 11246 (42 U.S.C. 2000e note), as amended by Executive Order 11375, and the regulations issued pursuant thereto (41 CFR Chapter 60 and 10-12.8) in the manner and to the same extent as if their provisions were set forth herein, and certifies that it does not maintain or provide for employees any facilities which are segregated on the basis of race, creed, color, or national origin at the main office or any branch office; and (2) the provisions of the General Services Administration regulations for the promotion of employment of disabled and Vietnam era veterans (41 CFR Subpart 1-12.11), in the same manner and to the same extent as if their provisions were set forth herein.

The provisions set forth in this Depository, Financial Agency, and Collateral.

Agreement are supplemented by 31 CFR Parts 202 and 380, other Treasury instructions, and the Federal Reserve Banks' Operating Circular 8.

IN WITNESS WHEREOF, the undersigned has caused the signature of its officer below-named and its corporate seal duly attested to be affixed hereto this _____ day of _____, 20_____, intending to be legally bonded hereby.

Name of Bank, City, State

Bank ABA/RTN #

(SEAL)

By: _____
Signature & Title of Officer Executing Agreement

Attest: _____
Signature & Title

FMS FORM 5903
DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE

**APPENDIX B: RESOLUTION AUTHORIZING EXECUTION OF
DEPOSITARY, FINANCIAL AGENCY, AND COLLATERAL AGREEMENT**

THIS IS TO CERTIFY, that at a meeting of the Board of Directors of _____ held on _____, 20____, the following resolution was duly adopted:

1. **“RESOLVED**, that the President, or any Vice President, or Cashier, of this bank is hereby authorized to execute on behalf of this bank the ‘Depositary, Financial Agency, and Collateral Agreement’, such execution to be under seal and with the attestation of an officer of this bank other than an officer executing the Agreement.”
2. **“RESOLVED FURTHER**, that any of such officers of this bank is authorized to execute in similar form on behalf of this bank such agreements to supplement, amend, or modify the terms of such ‘Depositary, Financial Agency, and Collateral Agreement’ as may from time to time be requested or approved by the Secretary of the Treasury.”
3. **“RESOLVED FURTHER**, that the

(Designate one or more officers, as desired, by title or name.)

of this bank , and each of them severally, are hereby authorized and directed, from time to time, to deposit collateral security at the place designated by the Secretary of the Treasury of the United States in such amounts, of such classes, and at such times as may be required by the Secretary of the Treasury, pursuant to the terms and conditions of the ‘Depositary, Financial Agency, and Collateral Agreement’ referred to herein above, 31 CFR Parts 202 and 380, other Treasury instructions, and the Federal Reserve Banks’ Operating Circular 8, to be held for the purposes set forth in, and subject to all the terms of such ‘Depositary, Financial Agency, and Collateral Agreement’, and that the said officers are further authorized to withdraw any or all of the collateral so deposited, subject to prior approval of the Secretary of the Treasury or a Federal Reserve Bank acting as fiscal agent, and further, to make substitutions and exchanges in the said collateral at such times as they may deem necessary, subject to approval of the Secretary of the Treasury or his designees.”

4. **“RESOLVED FURTHER**, that

are hereby authorized jointly or severally to sell, assign, and transfer any or all United States or other bonds which may be withdrawn under authority of the foregoing resolution, and to appoint one or more attorneys for that purpose, hereby revoking any previous authorization with respect to the bonds described herein, but not derogating from any previous authorization with respect to any other bonds.”

5. **“RESOLVED FURTHER**, that nothing contained in this resolution shall be deemed to affect any authority heretofore granted with respect to two percent Depositary Bonds by any resolution adopted or any revision thereof, or to render unnecessary the adoption of such resolution in connection with subscriptions for such bonds.”

Certified By: _____^{*} _____
Signature Date (SEAL)

Type or Print Name & Title of Certifying Officer

*The officer certifying this resolution shall have such authority and **shall not be designated** under numbered paragraph 3 hereof.