§ 178-a. Custody and nominee registration of stock and securities. 1. Notwithstanding any other provision of law, including the provisions of the administrative code of the city of New York and the education law, the public officer or officers designated by law as the custodian of a fund are authorized, in accordance with the provisions of this section, to turn over the physical custody and safekeeping of any stock or other securities, in registered or bearer form, owned by such fund to (a) any state bank or trust company located in this state, or (b) any national bank located in this state, or (c) any private banker duly authorized by the superintendent of financial services of this state to engage in business here. All such private bankers shall, as private bankers, maintain a permanent capital of not less than one million dollars in this state. Transfers of stocks or securities must receive the prior consent of the trustees of such fund, under such terms and conditions as they may specify. The custodian of such fund may direct such bank, trust company or private banker to register and hold any such stock or securities in its custody, in the name of its nominee. The custodian of such fund may also authorize such bank, trust company or private banker to deposit, or arrange for the deposit, of such stock or securities in a clearing corporation (as defined in article eight of the uniform commercial code). In addition, the custodian of such fund may deposit, or authorize such bank, trust company or private banker, to deposit, or arrange for the deposit of any of such securities the principal and interest of which the United States, or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment, with a federal reserve bank to be credited to an account as to which the ownership of, and other interests in, such securities may be transferred by entries on the books of such federal reserve bank without physical delivery of any securities. The records of such bank, trust company or private banker shall show, at all times, the ownership of such stock and securities, and they shall, when held in the possession of such bank, trust company or private banker be, at all times, kept separate from the assets of such bank, trust company or private banker. When any such stock or securities are so registered in the name of a nominee, such bank, trust company or private banker shall be absolutely liable for any loss occasioned by the acts of such nominee with respect to such stock or securities.

2. (a) The custodian of such fund may also authorize such bank, trust company or private banker to appoint one or more foreign entities as its agent to hold and register foreign securities. Such foreign entity must be either:

(i) a banking institution or trust company holding securities itself or in a securities depository or clearing agency which acts as a securities depository; or

(ii) a securities depository or clearing agency which acts as a securities depository.

(b) For purposes of the appointment of a foreign entity as agent, the term "banking institution or trust company" shall mean an entity which is:

(i) regulated by the relevant regulatory authority in that jurisdiction and has shareholders equity of not less than one hundred million dollars; or

(ii) a branch of, or a majority-owned direct or indirect subsidiary of, a domestic bank, trust company or private banker eligible to be authorized to have custody of securities under this section.

(c) For purposes of the appointment of a foreign entity as agent, the term "securities depository or clearing agency which acts as a securities depository" shall mean an entity which:

(i) is regulated by the relevant national regulatory authority in that jurisdiction;

(ii) is operated pursuant to the charter and by-laws of any company or association organized as a securities depository or clearing agency which operates a system for the central handling of securities or equivalent book entries; or

(iii) may be used as a securities depository or clearing agency which acts as a securities depository by an investment company (as defined by an act of congress entitled the "Investment Company Act of 1940").

(d) Registration of foreign securities may be in the name of any such foreign entity or its nominee, provided that the books and records of the domestic bank, trust company or private banker which made the appointment of the foreign entity shall show, at all times, the beneficial ownership of the fund.

(e) A domestic bank, trust company or private banker which has custody

of foreign securities of such fund shall be absolutely liable for any loss with respect to such securities which is occasioned by its acts, the acts of its agent, the acts of its nominee or its agent's nominee or the acts of any foreign entity appointed by it or any such foreign entity's agent or nominee.