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clearly and accurately reflect the information required and provide an adequate basis for the audit of the information. Record maintenance may include the use of automated or electronic records provided the records are easily retrievable, readily available for inspection, and capable of being reproduced in a hard copy.

§ 12.4 Content and time of notification.

Unless a national bank elects to provide notification by one of the means specified in § 12.5, a national bank effecting a securities transaction for a customer shall give or send to the customer either of the following types of notifications at or before completion of the transaction or, if the bank uses a registered broker/dealer's confirmation, within one business day from the bank's receipt of the registered broker/dealer's confirmation:

(a) *Written notification.* A written notification disclosing:

(1) Name of the bank;

(2) Name of the customer;

(3) Capacity in which the bank acts (i.e., as agent for the customer, as agent for both the customer and some other person, as principal for its own account, or in any other capacity);

(4) Date and time of execution, or a statement that the bank will furnish the time of execution within a reasonable time upon written request of the customer, and the identity, price, and number of shares or units (or principal amount in the case of debt securities) of the security purchased or sold by the customer;

(5) Amount of any remuneration that the customer has provided or is to provide any broker/dealer, directly or indirectly, in connection with the transaction;

(6) (i) Amount of any remuneration that the bank has received or will receive from the customer, and the source and amount of any other remuneration that the bank has received or will receive in connection with the transaction; unless:

(A) The bank and its customer have determined remuneration pursuant to a written agreement; or

(B) In the case of government securities and municipal securities, the bank received the remuneration in other than an agency transaction.

(ii) If the bank elects not to disclose the source and amount of remuneration it has or will receive from a party other than the customer pursuant to paragraph (a)(6)(i) of this section, the written notification must disclose whether the bank has received or will receive remuneration from a party other than the customer, and that the bank will furnish within a reasonable time the source and amount of this remuneration upon written request of the customer. This election is not available, however, if, with respect to a purchase, the bank was participating in a distribution of that security; or, with respect to a sale, the bank was participating in a tender offer for that security;

(7) Name of the registered broker/dealer utilized; or where there is no registered broker/dealer, the name of the person from whom the security was purchased or to whom the security was sold, or a statement that the bank will furnish this information within a reasonable time upon written request from the customer;

(8) In the case of any transaction in a debt security subject to redemption before maturity, a statement to the effect that the debt security may be redeemed in whole or in part before maturity, that the redemption could affect the yield represented and that additional information is available upon request;

(9) In the case of a transaction in a debt security effected exclusively on the basis of a dollar price:

(i) The dollar price at which the transaction was effected; and

(ii) The yield to maturity calculated from the dollar price, unless the transaction is for a debt security that either:

(A) Has a maturity date that may be extended by the issuer thereof, with a variable interest payable thereon; or

(B) Is an asset-backed security that represents an interest in or is secured by a pool of receivables or other financial assets that continuously are subject to prepayment;

(10) In the case of a transaction in a debt security effected on the basis of yield:

(i) The yield at which the transaction was effected, including the percentage amount and its characterization (e.g., current yield, yield to maturity, or yield to call) and if effected at yield to call, the type of call, the call date, and call price;

(ii) The dollar price calculated from the yield at which the transaction was effected; and

(iii) If effected on a basis other than yield to maturity and the yield to maturity is lower than the represented yield, the yield to maturity as well as the represented yield, unless the transaction is for a debt security that either:

(A) Has a maturity date that may be extended by the issuer thereof, with a variable interest rate payable thereon; or

(B) Is an asset-backed security that represents an interest in or is secured by a pool of receivables or other financial assets that continuously are subject to prepayment;

(11) In the case of a transaction in a debt security that is an asset-backed security, which represents an interest in or is secured by a pool of receivables or other financial assets that continuously are subject to prepayment, a statement indicating that the actual yield of the asset-backed security may vary according to the rate at which the underlying receivables or other financial assets are prepaid and a statement that information concerning the factors that affect yield (including at a minimum estimated yield, weighted average life, and the prepayment assumptions underlying yield) will be furnished upon written request of the customer; and

(12) In the case of a transaction in a debt security, other than a government security, that the security is unrated by a nationally recognized statistical rating organization, if that is the case; or

(b) *Copy of the registered broker/dealer's confirmation.* A copy of the confirmation of a registered broker/dealer relating to the securities transaction and, if the customer or any other source will provide remuneration to the bank in connection with the transaction and a written agreement between the bank and the customer does not determine the remuneration, a statement of the source and amount of any remuneration that the customer or any other source is to provide the bank.

§ 12.5 Notification by agreement; alternative forms and times of notification.

A national bank may elect to use the following notification procedures as an alternative to complying with § 12.4:

(a) *Notification by agreement.* A national bank effecting a securities transaction for an account in which the bank does not exercise investment discretion shall give or send written notification at the time and in the form agreed to in writing by the bank and customer, provided that the agreement makes clear the customer's right to receive the written notification pursuant to § 12.4 (a) or (b) at no additional cost to the customer.

(b) *Trust transactions.* A national bank effecting a securities transaction for an account in which the bank exercises investment discretion other than in an agency capacity shall give or send written notification within a reasonable time if a person having the power to terminate the account, or, if there is no such person, any person holding a vested beneficial interest in the account, requests written notification pursuant to § 12.4 (a) or (b). Otherwise, notification is not required.

(c) *Agency transactions.* (1) A national bank effecting a securities transaction for an account in which the bank exercises investment discretion in an agency capacity shall give or send, not less than once every three months, an itemized statement to each customer that specifies the funds and securities in the custody or possession of the bank at the end of the period and all debits, credits and transactions in the customer's account during the period.

(2) If requested by the customer, the bank shall give or send written notification to the customer pursuant to § 12.4 (a) or (b) within a reasonable time.

(d) *Collective investment fund transactions.* A national bank effecting a securities transaction for a collective investment fund shall follow 12 CFR 9.18.