

§ 12.3

12 CFR Ch. I (1-1-09 Edition)

plans, automatic investment plans, and employee stock purchase plans.

(2) Any prearranged, automatic transfer or “sweep” of funds from a deposit account to purchase a security, or any prearranged, automatic redemption or sale of a security with the funds being transferred into a deposit account (including cash management sweep services).

(k) *Security*: (1) Means any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, and any put, call, straddle, option, or privilege on any security or group or index of securities (including any interest therein or based on the value thereof), or, in general, any instrument commonly known as a “security”; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing;

(2) Does not mean currency; any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance not exceeding nine months, exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited; a deposit or share account in a Federal or State chartered depository institution; a loan participation; a letter of credit or other form of bank indebtedness incurred in the ordinary course of business; units of a collective investment fund; interests in a variable amount note in accordance with 12 CFR 9.18; U.S. Savings Bonds; or any other instrument the OCC determines does not constitute a security for purposes of this part.

§ 12.3 Recordkeeping.

(a) *General rule*. A national bank effecting securities transactions for customers shall maintain the following records for at least three years:

(1) *Chronological records*. An itemized daily record of each purchase and sale of securities maintained in chronological order, and including:

(i) Account or customer name for which each transaction was effected;

(ii) Description of the securities;

(iii) Unit and aggregate purchase or sale price;

(iv) Trade date; and

(v) Name or other designation of the broker/dealer or other person from whom the securities were purchased or to whom the securities were sold;

(2) *Account records*. Account records for each customer, reflecting:

(i) Purchases and sales of securities;

(ii) Receipts and deliveries of securities;

(iii) Receipts and disbursements of cash; and

(iv) Other debits and credits pertaining to transactions in securities;

(3) *Memorandum order*. A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or canceled), including:

(i) Account or customer name for which the transaction was effected;

(ii) Type of order (market order, limit order, or subject to special instructions);

(iii) Time the trader or other bank employee responsible for effecting the transaction received the order;

(iv) Time the trader placed the order with the broker/dealer, or if there was no broker/dealer, time the order was executed or canceled;

(v) Price at which the order was executed; and

(vi) Name of the broker/dealer utilized;

(4) *Record of broker/dealers*. A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each broker during the calendar year; and

(5) *Notifications*. A copy of the written notification required by §§ 12.4 and 12.5.

(b) *Manner of maintenance*. The records required by this section must 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.