

and sound manner and in compliance with this part; and

(ii) Provide such other information as the OCC may require.

(2) The information provided under paragraph (b)(1) of this section must include, without limitation, information regarding:

(i) Customer due diligence, including without limitation credit evaluations, customer appropriateness, and “know your customer” documentation;

(ii) New product approvals;

(iii) The haircuts that the national bank will apply to noncash margin as provided in § 48.9(b)(2); and

(iv) Conflicts of interest.

(c) *Treatment of existing retail forex businesses.* A national bank that is engaged in a retail forex business on July 15, 2011 or September 12, 2011 for Federal savings associations, may continue to do so for up to six months, subject to an extension of time by the OCC, if it requests the supervisory non-objection required by paragraph (a) of this section within 30 days of July 15, 2011 or September 12, 2011 for Federal savings associations, and submits the information required to be submitted under paragraph (b) of this section.

(d) *Compliance with the Commodity Exchange Act.* A national bank that is engaged in a retail forex business on July 15, 2011 or September 12, 2011 for Federal savings associations and complies with paragraph (c) of this section will be deemed, during the six-month or extended period described in paragraph (c) of this section, to be acting pursuant to a rule or regulation described in section 2(c)(2)(E)(ii)(I) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(E)(ii)(I)).

[76 FR 41384, July 14, 2011, as amended at 76 FR 56096, Sept. 12, 2011]

§ 48.5 Application and closing out of offsetting long and short positions.

(a) *Application of purchases and sales.* Any national bank that—

(1) Engages in a retail forex transaction involving the purchase of any currency for the account of any retail forex customer when the account of such retail forex customer at the time of such purchase has an open retail forex transaction for the sale of the same currency;

(2) Engages in a retail forex transaction involving the sale of any currency for the account of any retail forex customer when the account of such retail forex customer at the time of such sale has an open retail forex transaction for the purchase of the same currency;

(3) Purchases a put or call option involving foreign currency for the account of any retail forex customer when the account of such retail forex customer at the time of such purchase has a short put or call option position with the same underlying currency, strike price, and expiration date as that purchased; or

(4) Sells a put or call option involving foreign currency for the account of any retail forex customer when the account of such retail forex customer at the time of such sale has a long put or call option position with the same underlying currency, strike price, and expiration date as that sold must:

(i) Immediately apply such purchase or sale against such previously held opposite transaction; and

(ii) Promptly furnish such retail forex customer with a statement showing the financial result of the transactions involved and the name of any introducing broker to the account.

(b) *Close-out against oldest open position.* In all instances in which the short or long position in a customer’s retail forex account immediately prior to an offsetting purchase or sale is greater than the quantity purchased or sold, the national bank must apply such offsetting purchase or sale to the oldest portion of the previously held short or long position.

(c) *Transactions to be applied as directed by customer.* Notwithstanding paragraphs (a) and (b) of this section, to the extent the national bank allows retail forex customers to use other methods of offsetting retail forex transactions, the offsetting transaction must be applied as directed by a retail forex customer’s specific instructions. These instructions may not be made by the national bank or an IAP of the national bank.