

§ 349.1

- 349.13 Trading and operational standards.
- 349.14 Supervision.
- 349.15 Notice of transfers.
- 349.16 Customer dispute resolution.

AUTHORITY: 12 U.S.C.1813(q), 1818, 1819, and 3108; 7 U.S.C. 2(c)(2)(E), 27 *et seq.*

SOURCE: 76 FR 40789, July 12, 2011, unless otherwise noted.

§ 349.1 Authority, purpose, and scope.

(a) *Authority.* An FDIC-supervised insured depository institution that engages in retail forex transactions shall comply with the requirements of this part.

(b) *Purpose.* This part establishes rules applicable to retail forex transactions engaged in by FDIC-supervised insured depository institutions and applies on or after the effective date.

(c) *Scope.* Except as provided in paragraph (d) of this section, this part applies to FDIC-supervised insured depository institutions.

(d) *International applicability.* Sections 349.3 and 349.5 to 349.16 do not apply to retail foreign exchange transactions between a foreign branch of an FDIC-supervised IDI and a non-U.S. customer. With respect to those transactions, an FDIC-supervised IDI must comply with any disclosure, record-keeping, capital, margin, reporting, business conduct, documentation, and other requirements of applicable foreign law.

§ 349.2 Definitions.

For purposes of this part—

The following terms have the same meaning as in the Commodity Exchange Act: “Affiliated person of a futures commission merchant”; “Associated person”; “Contract of sale”; “Commodity”; “Eligible contract participant”; “Futures commission merchant”; “Security”; and “Security futures product”.

Affiliate has the same meaning as in §2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

Commodity Exchange Act means the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

FDIC-supervised insured depository institution means any insured depository institution for which the Federal Deposit Insurance Corporation is the appropriate Federal banking agency pur-

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suant to §3(q) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(q).

Forex means foreign exchange.

Institution-affiliated party or *IAP* has the same meaning as in 12 U.S.C. 1813(u)(1), (2), or (3).

Insured depository institution or *IDI* has the same meaning as in 12 U.S.C. 1813(c)(2).

Introducing broker means any person who solicits or accepts orders from a retail forex customer in connection with retail forex transactions.

Related person, when used in reference to a retail forex counterparty, means:

(1) Any general partner, officer, director, or owner of ten percent or more of the capital stock of the FDIC-supervised insured depository institution;

(2) An associated person or employee of the retail forex counterparty, if the retail forex counterparty is not an FDIC-supervised insured depository institution;

(3) An IAP, if the retail forex counterparty is an FDIC-supervised insured depository institution; and

(4) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who shares the same home as any of the foregoing persons.

Retail forex account means the account of a retail forex customer, established with an FDIC-supervised insured depository institution, in which retail forex transactions with the FDIC-supervised insured depository institution as counterparty are undertaken, or the account of a retail forex customer that is established in order to enter into such transactions.

Retail forex account agreement means the contractual agreement between an FDIC-supervised insured depository institution and a retail forex customer that contains the terms governing the customer’s retail forex account with the FDIC-supervised insured depository institution.

Retail forex business means engaging in one or more retail forex transactions with the intent to derive income from those transactions, either directly or indirectly.

Retail forex counterparty includes, as appropriate:

(1) An FDIC-supervised insured depository institution;

(2) A retail foreign exchange dealer;