

national bank's error or mishandling of a retail forex transaction.

(e) *Certain guaranties unaffected.* This section does not affect any guarantee entered into prior to the effective date of this part, but this section does apply to any extension, modification, or renewal thereof entered into after such date.

#### § 48.12 Authorization to trade.

(a) *Specific authorization required.* No national bank may directly or indirectly effect a retail forex transaction for the account of any retail forex customer unless, before the retail forex transaction occurs, the retail forex customer specifically authorized the national bank to effect the retail forex transaction.

(b) *Requirements for specific authorization.* A retail forex transaction is "specifically authorized" for purposes of this section if the retail forex customer specifies:

(1) The precise retail forex transaction to be effected;

(2) The exact amount of the foreign currency to be purchased or sold; and

(3) In the case of an option, the identity of the foreign currency or contract that underlies the option.

#### § 48.13 Trading and operational standards.

(a) *Internal rules, procedures, and controls required.* A national bank engaging in retail forex transactions must establish and implement internal policies, procedures, and controls designed, at a minimum, to:

(1) Ensure, to the extent reasonable, that each retail forex transaction that is executable at or near the price that the national bank has quoted to the retail forex customer is entered for execution before any retail forex transaction for:

(i) A proprietary account;

(ii) An account for which a related person may originate orders without the prior specific consent of the account owner, if the related person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account;

(iii) An account in which a related person has an interest, if the related

person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account; or

(iv) An account in which a related person may originate orders without the prior specific consent of the account owner, if the related person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account;

(2) Prevent national-bank related persons from placing orders, directly or indirectly, with another person in a manner designed to circumvent the provisions of paragraph (a)(1) of this section; and

(3) Fairly and objectively establish settlement prices for retail forex transactions.

(b) *Disclosure of retail forex transactions.* No national bank engaging in retail forex transactions may disclose that an order of another person is being held by the national bank, unless the disclosure is necessary to the effective execution of such order or the disclosure is made at the request of the OCC.

(c) *Handling of retail forex accounts of related persons of retail forex counterparties.* No national bank engaging in retail forex transactions may knowingly handle the retail forex account of an employee of another retail forex counterparty's retail forex business unless the national bank:

(1) Receives written authorization from a person designated by the other retail forex counterparty with responsibility for the surveillance over the account pursuant to paragraph (a)(2) of this section;

(2) Prepares immediately upon receipt of an order for the account a written record of the order, including the account identification and order number, and records thereon to the nearest minute, by time-stamp or other timing device, the date and time the order was received; and

(3) Transmits on a regular basis to the other retail forex counterparty copies of all statements for the account and of all written records prepared upon the receipt of orders for the account pursuant to paragraph (c)(2) of this section.

## § 48.14

(d) *Related person of national bank establishing account at another retail forex counterparty.* No related person of a national bank working in the national bank's retail forex business may have an account, directly or indirectly, with another retail forex counterparty unless the other retail forex counterparty:

(1) Receives written authorization to open and maintain the account from a person designated by the national bank with responsibility for the surveillance over the account pursuant to paragraph (a)(2) of this section; and

(2) Transmits on a regular basis to the national bank copies of all statements for the account and of all written records prepared by the other retail forex counterparty upon receipt of orders for the account pursuant to paragraph (a)(2) of this section.

(e) *Prohibited trading practices.* No national bank engaging in retail forex transactions may:

(1) Enter into a retail forex transaction, to be executed pursuant to a market or limit order at a price that is not at or near the price at which other retail forex customers, during that same time period, have executed retail forex transactions with the national bank;

(2) Adjust or alter prices for a retail forex transaction after the transaction has been confirmed to the retail forex customer;

(3) Provide to a retail forex customer a new bid price for a retail forex transaction that is higher than its previous bid without providing a new asked price that is also higher than its previous asked price by a similar amount;

(4) Provide to a retail forex customer a new bid price for a retail forex transaction that is lower than its previous bid without providing a new asked price that is also lower than its previous asked price by a similar amount; or

(5) Establish a new position for a retail forex customer (except one that offsets an existing position for that retail forex customer) where the national bank holds outstanding orders of other retail forex customers for the same currency pair at a comparable price.

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### § 48.14 Supervision.

(a) *Supervision by the national bank.* A national bank engaging in retail forex transactions must diligently supervise the handling by its officers, employees, and agents (or persons occupying a similar status or performing a similar function) of all retail forex accounts carried, operated, or advised by at the national bank and all activities of its officers, employees, and agents (or persons occupying a similar status or performing a similar function) relating to their retail forex business.

(b) *Supervision by officers, employees, or agents.* An officer, employee, or agent of a national bank must diligently supervise his or her subordinates' handling of all retail forex accounts at the national bank and all the subordinates' activities relating to the national bank's retail forex business.

### § 48.15 Notice of transfers.

(a) *Prior notice generally required.* Except as provided in paragraph (b) of this section, a national bank must provide a retail forex customer with 30 days' prior notice of any assignment of any position or transfer of any account of the retail forex customer. The notice must include a statement that the retail forex customer is not required to accept the proposed assignment or transfer and may direct the national bank to liquidate the positions of the retail forex customer or transfer the account to a retail forex counterparty of the retail forex customer's selection.

(b) *Exceptions.* The requirements of paragraph (a) of this section do not apply to transfers:

(1) Requested by the retail forex customer;

(2) Made by the Federal Deposit Insurance Corporation as receiver or conservator under the Federal Deposit Insurance Act; or

(3) Otherwise authorized by applicable law.

(c) *Obligations of transferee national bank.* A national bank to which retail forex accounts or positions are assigned or transferred under paragraph (a) of this section must provide to the affected retail forex customers the risk disclosure statements and forms of acknowledgment required by this part