(iv) Date and time, to the nearest minute, that the retail forex transaction order was received (as evidenced by time-stamp or other timing device);

(v) Time, to the nearest minute, that the retail forex transaction order was executed; and

(vi) Price at which the retail forex transaction was executed.

(2) *Post-execution allocation of bunched orders.* Specific identifiers for retail forex accounts included in bunched orders need not be recorded at time of order placement or upon report of execution as required under paragraph (e)(1) of this section if the following requirements are met:

(i) The national bank placing and directing the allocation of an order eligible for post-execution allocation has been granted written investment discretion with regard to participating customer accounts and makes the following information available to retail forex customers upon request:

(A) The general nature of the post-execution allocation methodology the national bank will use;

(B) Whether the national bank has any interest in accounts that may be included with customer accounts in bunched orders eligible for post-execution allocation; and

(C) Summary or composite data sufficient for that customer to compare the customer's results with those of other comparable customers and, if applicable, any account in which the national bank has an interest.

(ii) Post-execution allocations are made as soon as practicable after the entire transaction is executed;

(iii) Post-execution allocations are fair and equitable, with no account or group of accounts receiving consistently favorable or unfavorable treatment; and

(iv) The post-execution allocation methodology is sufficiently objective and specific to permit the OCC to verify the fairness of the allocations using that methodology.

(f) *Record of monthly statements and confirmations.* A national bank must retain a copy of each monthly statement and confirmation required by § 48.10.

(g) *Form of record and 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. A national bank must create and maintain audio recordings of oral orders and oral offset instructions. Record maintenance may include the use of automated or electronic records provided that the records are easily retrievable and readily available for inspection.

(h) *Length of maintenance.* A national bank must keep each record required by this section for at least five years from the date the record is created.

§ 48.8 Capital requirements.

A national bank offering or entering into retail forex transactions must be well capitalized as defined by 12 CFR part 6.

§ 48.9 Margin requirements.

(a) *Margin required.* A national bank engaging, or offering to engage, in retail forex transactions must collect from each retail forex customer an amount of margin not less than:

(1) Two percent of the notional value of the retail forex transaction for major currency pairs and 5 percent of the notional value of the retail forex transaction for all other currency pairs;

(2) For short options, 2 percent for major currency pairs and 5 percent for all other currency pairs of the notional value of the retail forex transaction, plus the premium received by the retail forex customer; or

(3) For long options, the full premium charged and received by the national bank.

(b)(1) *Form of margin.* Margin collected under paragraph (a) of this section or pledged by a retail forex customer for retail forex transactions must be in the form of cash or the following financial instruments:

(i) Obligations of the United States and obligations fully guaranteed as to principal and interest by the United States;

(ii) General obligations of any State or of any political subdivision thereof;

(iii) General obligations issued or guaranteed by any enterprise, as defined in 12 U.S.C. 4502(10);

(iv) Certificates of deposit issued by an insured depository institution, as

defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

(v) Commercial paper;

(vi) Corporate notes or bonds;

(vii) General obligations of a sovereign nation;

(viii) Interests in money market mutual funds; and

(ix) Such other financial instruments as the OCC deems appropriate.

(2) *Haircuts.* A national bank must establish written policies and procedures that include:

(i) Haircuts for noncash margin collected under this section; and

(ii) Annual evaluation, and, if appropriate, modification, of the haircuts.

(c) *Separate margin account.* Margin collected by the national bank from a retail forex customer for retail forex transactions or pledged by a retail forex customer for retail forex transactions must be placed into a separate account.

(d) *Margin calls; liquidation of position.*—(1) For each retail forex customer, at least once per day, a national bank must:

(i) Mark the value of the retail forex customer's open retail forex positions to market;

(ii) Mark the value of the margin collected under this section from the retail forex customer to market; and

(iii) Determine whether, based on the marks in paragraphs (d)(1)(i) and (ii) of this section, the national bank has collected margin from the retail forex customer sufficient to satisfy the requirements of this section.

(2) If, pursuant to paragraph (d)(1)(iii) of this section, the national bank determines that it has not collected margin from the retail forex customer sufficient to satisfy the requirements of this section then, within a reasonable period of time, the national bank must either:

(i) Collect margin from the retail forex customer sufficient to satisfy the requirements of this section; or

(ii) Liquidate the retail forex customer's retail forex transactions.

(e) *Set-off prohibited.* A national bank may not:

(1) Apply a retail forex customer's retail forex obligations against any funds or other asset of the retail forex customer other than margin in the separate margin account described in paragraph (c) of this section;

(2) Apply a retail forex customer's retail forex obligations to increase the amount owed by the retail forex customer to the national bank under any loan; or

(3) Collect the margin required under this section by use of any right of set-off.

§48.10 Required reporting to customers.

(a) *Monthly statements.* Each national bank must promptly furnish to each retail forex customer, as of the close of the last business day of each month or as of any regular monthly date selected, except for accounts in which there are neither open positions at the end of the statement period nor any changes to the account balance since the prior statement period but, in any event, not less frequently than once every three months, a statement that clearly shows:

(1) For each retail forex customer:

(i) The open retail forex transactions with prices at which acquired;

(ii) The net unrealized profits or losses in all open retail forex transactions marked to the market;

(iii) Any money, securities, or other property in the separate margin account required by §48.9(c); and

(iv) A detailed accounting of all financial charges and credits to the retail forex customer's retail forex accounts during the monthly reporting period, including: Money, securities, or property received from or disbursed to such customer; realized profits and losses; and fees, charges, spreads, and commissions.

(2) For each retail forex customer engaging in retail forex transactions that are options:

(i) All such options purchased, sold, exercised, or expired during the monthly reporting period, identified by underlying retail forex transaction or underlying currency, strike price, transaction date, and expiration date;

(ii) The open option positions carried for such customer and arising as of the end of the monthly reporting period, identified by underlying retail forex transaction or underlying currency,