

## Federal Deposit Insurance Corporation

## § 349.2

- 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-

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;