

§5.21

17 CFR Ch. I (4–1–14 Edition)

and Intermediary Oversight and the Director of the Division of Market Oversight, or to the respective Director's designees, the authority set forth in this section to make special calls for information on controlled accounts from retail foreign exchange dealers, futures commission merchants and from introducing brokers, and to make special calls for information on open contracts in accounts carried or introduced by futures commission merchants, introducing brokers, and foreign brokers. Either Director may submit to the Commission for its consideration any matter that has been delegated pursuant to this section. Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated in this section to the Directors.

[75 FR 55432, Sept. 10, 2010, as amended at 78 FR 22419, Apr. 16, 2013]

§5.21 Supervision.

Each Commission registrant subject to this part 5, except an associated person who has no supervisory duties, must diligently supervise the handling by its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) of all retail forex accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) relating to its business as a Commission registrant.

§5.22 Registered futures association membership.

(a) Each person registered as a retail foreign exchange dealer must become and remain a member of at least one futures association that is registered under section 17 of the Act and that provides for the membership therein of such retail foreign exchange dealer.

(b) Each person required to register as:

(1) An introducing broker, because the person solicits or accepts orders for retail forex transactions;

(2) A commodity pool operator because the person operates, or solicits funds, securities, or property for, a

pooled investment vehicle that engages in retail forex transactions; or

(3) A commodity trading advisor because the person exercises discretionary trading authority, or obtains written authorization to exercise discretionary trading authority over, an account in connection with retail forex transactions, must become and remain a member of at least one futures association that is registered under section 17 of the Act and that provides for the membership therein of such person.

§5.23 Notice of bulk transfers and bulk liquidations.

(a) *Notice and disclosure to retail forex customers of a bulk transfer.* (1) A retail foreign exchange dealer, futures commission merchant or introducing broker must obtain the written prior and specific consent of its retail forex customer to the assignment of any position or transfer of any account of the retail forex customer to another retail foreign exchange dealer, futures commission merchant or introducing broker, unless made at the retail forex customer's request.

(2) Absent a request of the retail forex customer or the consent described in paragraph (a)(1) of this section, assignments of positions and transfers of accounts of retail forex customers may be permitted under rules of the retail forex dealer's, futures commission merchant's, or introducing broker's designated self-regulatory organization that establish notice and other requirements with respect to the assignment of positions and transfers of accounts of retail forex customers. If such rules permit implied consent as a result of the failure of the retail forex customer to object after having received notice of the proposed assignment or transfer, such rules must provide that 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 transferor firm to liquidate the positions of the retail forex customer or transfer the account to a firm of the retail forex customer's selection.

(3) For assignments and transfers made under this section, other than at the retail forex customer's request, the