

Comptroller of the Currency, Treasury

§ 12.7

(e) *Periodic plan transactions.* (1) A national bank effecting a securities transaction for a periodic plan (except for a cash management sweep service) shall give or send to its customer not less than once every three months, a written statement showing:

(i) The customer's funds and securities in the custody or possession of the bank;

(ii) All service charges and commissions paid by the customer in connection with the transaction; and

(iii) All other debits and credits of the customer's account involved in the transaction.

(2) A national bank effecting a securities transaction for a cash management sweep service or other periodic plan as defined in §12.2(j)(2) shall give or send its customer a written statement, in the same form as under paragraph (e)(1) of this section, for each month in which a purchase or sale of a security takes place in a deposit account and not less than once every three months if there are no securities transactions in the account, subject to any other applicable laws and regulations.

(3) Upon written request of the customer, the bank shall give or send the information described in §12.4 (a) or (b), except that the bank need not provide to the customer any information relating to remuneration paid in connection with the transaction when the remuneration is paid by a source other than the customer.

§ 12.6 Fees.

A national bank may charge a reasonable fee for providing notification pursuant to §12.5(b), (c), and (e). A national bank may not charge a fee for providing notification pursuant to §12.4 or §12.5 (a) and (d).

§ 12.7 Securities trading policies and procedures.

(a) *Policies and procedures; reports of securities trading.* A national bank effecting securities transactions for customers shall maintain and adhere to policies and procedures that:

(1) Assign responsibility for supervision of all officers or employees who:

(i) Transmit orders to or place orders with registered broker/dealers;

(ii) Execute transactions in securities for customers; or

(iii) Process orders for notification or settlement purposes, or perform other back office functions with respect to securities transactions effected for customers. Policies and procedures for personnel described in this paragraph (a)(1)(iii) must provide for supervision and reporting lines that are separate from supervision and reporting lines for personnel described in paragraphs (a)(1) (i) and (ii) of this section;

(2) Provide for the fair and equitable allocation of securities and prices to accounts when the bank receives orders for the same security at approximately the same time and places the orders for execution either individually or in combination;

(3) Provide for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction, where permissible under applicable law; and

(4) Require bank officers and employees to report to the bank, within ten business days after the end of the calendar quarter, all personal transactions in securities made by them or on their behalf in which they have a beneficial interest, if the officers and employees:

(i) Make investment recommendations or decisions for the accounts of customers;

(ii) Participate in the determination of the recommendations or decisions; or

(iii) In connection with their duties, obtain information concerning which securities are purchased, sold, or recommended for purchase or sale by the bank.

(b) *Required information.* The report required under paragraph (a)(4) of this section must contain the following information:

(1) The date of the transaction, the title and number of shares, and the principal amount of each security involved;

(2) The nature of the transaction (i.e. purchase, sale, or other type of acquisition or disposition);

(3) The price at which the transaction was effected; and

(4) The name of the registered broker, registered dealer, or bank with

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or through whom the transaction was effected.

(c) *Report not required.* This section does not require a bank officer or employee to report transactions if:

(1) The officer or employee has no direct or indirect influence or control over the transaction;

(2) The transaction is in mutual fund shares;

(3) The transaction is in government securities; or

(4) The transactions involve an aggregate amount of purchases and sales per officer or employee of \$10,000 or less during the calendar quarter.

(d) *Additional reporting requirement.* A national bank that acts as an investment adviser to an investment company is subject to the requirements of Securities and Exchange Commission (SEC) Rule 17j-1 (17 CFR 270.17j-1) issued under the Investment Company Act of 1940. SEC Rule 17j-1 requires an “access person” of the investment adviser to report certain personal securities transactions to the investment adviser for review by the Securities and Exchange Commission. “Access person” includes directors, officers, and certain employees of the investment adviser. The reporting requirement under paragraph (a)(4) of this section is a separate requirement from any applicable requirements under SEC Rule 17j-1. However, an “access person” required to file a report with a national bank pursuant to SEC Rule 17j-1 need not file a separate report under paragraph (a)(4) of this section if the required information is the same.

§ 12.8 Waivers.

A national bank may file a written request with the OCC for waiver of one or more of the requirements set forth in §§ 12.2 through 12.7, either in whole or in part. The OCC may grant a waiver from the requirements of this part to any national bank, or any class of national banks, with regard to a specific transaction or a specific class of transactions.

§ 12.9 Settlement of securities transactions.

(a) A national bank shall not effect or enter into a contract for the purchase or sale of a security (other than

an exempted security as defined in 15 U.S.C. 78c(a)(12), government security, municipal security, commercial paper, bankers’ acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract, unless otherwise expressly agreed to by the parties at the time of the transaction.

(b) Paragraphs (a) and (c) of this section do not apply to contracts:

(1) For the purchase or sale of limited partnership interests that are not listed on an exchange or for which quotations are not disseminated through an automated quotation system of a registered securities association;

(2) For the purchase or sale of securities that the Securities and Exchange Commission (SEC) may from time to time, taking into account then existing market practices, exempt by order from the requirements of paragraph (a) of SEC Rule 15c6-1, 17 CFR 240.15c6-1(a), either unconditionally or on specified terms and conditions, if the SEC determines that an exemption is consistent with the public interest and the protection of investors.

(c) Paragraph (a) of this section does not apply to contracts for the sale for cash of securities that are priced after 4:30 p.m. Eastern time on the date the securities are priced and that are sold by an issuer to an underwriter pursuant to a firm commitment underwritten offering registered under the Securities Act of 1933, 15 U.S.C. 77a *et seq.*, or sold to an initial purchaser by a national bank participating in the offering. A national bank shall not effect or enter into a contract for the purchase or sale of the securities that provides for payment of funds and delivery of securities later than the fourth business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.

(d) For purposes of paragraphs (a) and (c) of this section, the parties to a contract are deemed to have expressly agreed to an alternate date for payment of funds and delivery of securities at the time of the transaction for a