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Transmittal – See OCC 2020-11

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Retail Foreign Exchange Transactions: Final Rule

SUMMARY

The Office of the Comptroller of the Currency (OCC) has adopted a final rule authorizing national banks, Federal branches and agencies of foreign banks, and their operating subsidiaries (collectively, national banks) to engage in certain off-exchange transactions in foreign currency with retail customers. The rule establishes various requirements with which national banks must comply to conduct such transactions.

To

Chief Executive Officers of All National Banks, Department and Division Heads, All Examining Personnel, and Other Interested Parties

BACKGROUND

As amended by the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, as of July 16, 2011, the Commodity Exchange Act will forbid national banks from engaging in certain off-exchange transactions in foreign currency with retail customers (retail Forex transactions), except pursuant to an OCC rule authorizing the transaction. The OCC issued a notice of proposed rulemaking on April 22, 2011, proposing such a rule. After carefully considering the public comments to the proposed rule, the OCC adopted a final rule that was largely similar to the proposed rule. In general, a retail forex transaction is a transaction in foreign currency between a national bank and a retail customer that is (i) a future or option on such a future, (ii) an option not traded or executed on a registered national securities exchange, or (iii) a certain leveraged or margined transaction.

As required by the Commodity Exchange Act, the rule includes requirements for conducting retail forex transactions with respect to disclosure, recordkeeping, capital and margin, reporting, business conduct, and documentation. The requirements are similar to a recently enacted Commodity Futures Trading Commission (CFTC) rule governing retail forex transactions by CFTC registrants.

The final rule was published in the *Federal Register* on July 14, 2011. The final rule is effective on July 15, 2011. National banks that were engaged in a retail forex business prior to July 15, 2011, must request by August 14, 2011, a supervisory no-objection to continue their retail forex business.

FURTHER INFORMATION

For further information please contact Securities and Corporate Practices Division at (202) 649-6360.

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