

§ 47.7

12 CFR Ch. I (1–1–23 Edition)

§ 47.7 Foreign bank multi-branch master agreements.

(a) *Treatment of foreign bank multi-branch master agreements.* With respect to a Federal branch or agency of a global systemically important foreign banking organization, a foreign bank multi-branch master agreement that is a covered QFC solely because the master agreement permits agreements or transactions that are QFCs to be entered into at one or more Federal branches or agencies of the global systemically important foreign banking organization will be considered a covered QFC for purposes of this part only with respect to such agreements or transactions booked at such Federal branches or agencies.

(b) *Definition of foreign bank multi-branch master agreements.* A foreign bank multi-branch master agreement means a master agreement that permits a Federal branch or agency and another place of business of a foreign bank that is outside the United States to enter transactions under the agreement.

§ 47.8 Exclusion of certain QFCs.

(a) *Exclusion of QFCs with FMUs.* Notwithstanding § 47.3, a covered bank is not required to conform to the requirements of this part a covered QFC to which:

- (1) A CCP is party; or
- (2) Each party (other than the covered bank) is an FMU.

(b) *Exclusion of certain covered entity and covered FSI QFCs.* If a covered QFC is also a covered QFC under part 382 or 252, subpart I, of this title that an affiliate of the covered bank is also required to conform pursuant to part 382 or 252, subpart I, of this title and the covered bank is:

- (1) The affiliate credit enhancement provider with respect to the covered QFC, then the covered bank is required to conform the credit enhancement to the requirements of this part but is not required to conform the direct QFC to the requirements of this part; or
- (2) The direct party to which the excluded bank is the affiliate credit enhancement provider, then the covered bank is required to conform the direct QFC to the requirements of this part but is not required to conform the

credit enhancement to the requirements of this part.

(c) *Exclusion of certain contracts.* Notwithstanding § 47.3, a covered bank is not required to conform the following types of contracts or agreements to the requirements of this part:

(1) An investment advisory contract that:

(i) Is with a retail customer or counterparty;

(ii) Does not explicitly restrict the transfer of the contract (or any QFC entered into pursuant thereto or governed thereby, or any interest or obligation in or under, or any property securing, any such QFC or the contract) from the covered bank except as necessary to comply with section 205(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5(a)(2)); and

(iii) Does not explicitly provide a default right with respect to the contract or any QFC entered pursuant thereto or governed thereby.

(2) A warrant that:

(i) Evidences a right to subscribe to or otherwise acquire a security of the covered bank or an affiliate of the covered bank; and

(ii) Was issued prior to January 1, 2018.

(d) *Exemption by order.* The OCC may exempt by order one or more covered banks from conforming one or more contracts or types of contracts to one or more of the requirements of this part after considering:

(1) The potential impact of the exemption on the ability of the covered bank, or affiliates of the covered bank, to be resolved in a rapid and orderly manner in the event of the financial distress or failure of the entity that is required to submit a resolution plan;

(2) The burden the exemption would relieve; and

(3) Any other factor the OCC deems relevant.

PART 48—RETAIL FOREIGN EXCHANGE TRANSACTIONS

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