

**REVISED PROPOSED REGULATION
OF THE STATE TREASURER**

LCB File No. R028-04

May 26, 2004

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-19, NRS 356.390.

A REGULATION relating to securities; establishing a program for monitoring the collateral that must be maintained by depositories to secure the uninsured deposits of certain public depositors; providing for the imposition of an administrative fee in certain circumstances; and providing other matters properly relating thereto.

Section 1. Chapter 356 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 19, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Acceptable securities” has the meaning ascribed to it in subsection 2 of NRS 356.360.*

Sec. 4. *“Collateral pool” means the method of securing the repayment of the uninsured balances of the deposits of a participating public depositor at a depository through the total collateral pledged at a third-party depository for the uninsured balances of the deposits of all participating public depositors.*

Sec. 5. *“Depository” has the meaning ascribed to it in NRS 356.310.*

Sec. 6. *“File transfer protocol” means the communications protocol approved by the State Treasurer governing the transfer of files from the computer of a public depositor, depository or third-party depository to a computer at the Office of the State Treasurer over a network.*

Sec. 7. *“Local government” has the meaning ascribed to it in NRS 356.320.*

Sec. 8. *“Public depositor” means the State or a local government that deposits public money with a depository.*

Sec. 9. *“Public money” has the meaning ascribed to it in NRS 356.330. The term includes, without limitation, savings deposits and demand deposits.*

Sec. 10. *“Third-party depository” has the meaning ascribed to it in NRS 356.340.*

Sec. 11. 1. *To participate in a collateral pool at a depository, a public depositor must notify the depository on a form approved by the State Treasurer. The public depositor must provide a copy of the notice to the State Treasurer.*

2. *Within 5 business days after receipt of the notice described in subsection 1, the depository shall provide to the public depositor a list of the names and titles of all the accounts maintained by the public depositor at the depository. The public depositor shall review the list and, within 5 business days after receipt of the list, notify the depository of any inaccurate or incomplete information relating to the accounts of the public depositor at the depository.*

3. *Within 5 business days after submission of the form described in subsection 1 to the depository, the public depositor shall provide to the depository written authorization to:*

(a) *Request any third-party depository that holds collateral pledged on behalf of the public depositor to release all such collateral to the depository; and*

(b) Repledge the securities for the benefit of the State Treasurer at the third-party depository selected by the depository.

4. For each new account opened at a depository by a public depositor that participates in a collateral pool at the depository, the public depositor shall:

(a) Inform the depository that the account is subject to the provisions of NRS 356.360.

(b) Report the account to the State Treasurer, on a form approved by the State Treasurer, on or before the deadline established by the State Treasurer for submission of such a form. The report must be submitted by file transfer protocol, electronic mail, facsimile, telephone or any other method approved by the State Treasurer.

5. A depository shall seek verification from a public depositor that participates in a collateral pool at the depository if the depository suspects that an account of the public depositor is not identified as a public account.

6. A public depositor that participates in a collateral pool at one or more depositories shall submit to the State Treasurer an annual report of all accounts that the public depositor maintained at each such depository during the immediately preceding year. The report must be submitted:

(a) On or before the deadline established by the State Treasurer for submission of the report;

(b) In a format approved by the State Treasurer; and

(c) By file transfer protocol, electronic mail, facsimile, telephone or any other method approved by the State Treasurer.

↪The public depositor shall transmit to each depository referenced in the report a copy of the portion of the annual report that pertains to that depository.

7. A public depositor that participates in a collateral pool at a depository shall not secure any portion of the uninsured balances of its deposits pursuant to a direct pledge agreement with the depository.

Sec. 12. *1. A depository that receives notification from a public depositor that wishes to participate in a collateral pool at the depository pursuant to section 11 of this regulation shall execute an agreement with the State Treasurer, in a format approved by the State Treasurer, to pledge and maintain collateral against the uninsured deposits of the public depositor. Such an agreement must:*

(a) Require the depository to maintain as collateral at a third-party depository for the benefit of the State Treasurer acceptable securities having a fair market value that is at least 102 percent of the amount of the uninsured balances of the public money of the public depositor held at the depository.

(b) If the depository is not maintaining the minimum level of collateral at the third-party depository required by paragraph (a), require the depository to pledge additional collateral to meet the requirements of paragraph (a) within the deadline established by the State Treasurer.

(c) Prohibit the depository from holding, at any one time, public money in an amount exceeding the total equity of the depository, as reflected on the financial statement of the depository.

2. Except as otherwise provided in this subsection, if a depository that receives notification from a public depositor that wishes to participate in a collateral pool at the depository pursuant to section 11 of this regulation has not yet established a collateral pool on the date of receipt of the notification, the depository shall execute an agreement with the State Treasurer and a third-party depository, in a format approved by the State Treasurer, to pledge

and maintain collateral against the uninsured deposits of the public depositor at the third-party depository for the benefit of the State Treasurer. If the depository elects to use the Federal Reserve Bank as the third-party depository, the terms specified in the Operating Circulars of the Federal Reserve Banks governing book-entry securities apply.

3. An agreement entered into pursuant to subsection 2 with a third-party depository other than the Federal Reserve Bank must include a provision that requires the third-party depository to maintain only acceptable securities as pledged collateral from depositories.

Sec. 13. 1. *Each depository that maintains a collateral pool shall submit to the State Treasurer:*

(a) A daily report of the total balance of public money held at the depository in the accounts of public depositors that participate in the collateral pool as of the end of the business day to which the report pertains;

(b) A weekly summary report of the total fair market value of securities maintained by the depository at a third-party depository for the benefit of the State Treasurer as collateral for the uninsured balances of public money deposited with the depository by public depositors that participate in the collateral pool as of the end of the last business day of the week to which the report pertains;

(c) A monthly report:

(1) Listing all acceptable securities maintained by the depository at a third-party depository for the benefit of the State Treasurer as collateral for the uninsured balances of public money deposited with the depository by public depositors that participate in the collateral pool, including, without limitation, the fair market value of each of those securities, as of the end of the last business day of the month to which the report pertains; and

(2) Stating the number of savings accounts and demand accounts maintained at the depository by public depositors that participate in the collateral pool as of the end of the month to which the report pertains; and

(d) An annual report containing the financial statement of the depository for the immediately preceding year.

2. The reports required by subsection 1 must be submitted:

(a) On or before the deadlines established by the State Treasurer for submission of the reports;

(b) In a format approved by the State Treasurer; and

(c) By file transfer protocol, electronic mail, facsimile, telephone or any other method approved by the State Treasurer.

Sec. 14. 1. Except when the third-party depository is the Federal Reserve Bank:

(a) If a depository that maintains a collateral pool wishes to pledge additional security to the third-party depository that the depository selected, the depository must notify the third-party depository in writing or any other method approved by the State Treasurer. By the end of the same business day on which the third-party depository receives the notification from the depository, the third-party depository shall process the transaction and provide the depository with acknowledgment that the transaction was completed.

(b) If a depository that maintains a collateral pool wishes to release security held by the third-party depository that the depository selected, the depository must notify the State Treasurer in writing or any other method approved by the State Treasurer. If the State Treasurer approves the transaction, the State Treasurer will notify the third-party depository in writing. By the end of the same business day on which the third-party depository receives

the notification from the State Treasurer, the third-party depository shall process the transaction and provide the depository with acknowledgment that the transaction was completed.

(c) If a depository that maintains a collateral pool wishes to substitute security held by the third-party depository that the depository selected and the fair market value of the security proposed for substitution is:

(1) Greater than or equal to the fair market value of the existing security, the depository must notify the third-party depository in writing or any other method approved by the State Treasurer. By the end of the same business day on which the third-party depository receives the notification from the depository, the third-party depository shall process the transaction and provide the depository with acknowledgment that the transaction was completed.

(2) Less than the fair market value of the existing security, the depository must notify the State Treasurer in writing or any other method approved by the State Treasurer. If the State Treasurer approves the substitution of security, the State Treasurer will notify the third-party depository in writing. By the end of the same business day on which the third-party depository receives the notification from the State Treasurer, the third-party depository shall process the transaction and provide the depository with acknowledgment that the transaction was completed.

2. If a depository that selected the Federal Reserve Bank as its third-party depository wishes to pledge additional security to, or release or substitute security held at, the Federal Reserve Bank, the depository shall comply with the requirements set forth in the Operating Circulars of the Federal Reserve Banks governing book-entry securities.

Sec. 15. 1. *Each third-party depository other than the Federal Reserve Bank shall submit to the State Treasurer:*

(a) A daily report of any pledge, release or substitution of security pursuant to section 14 of this regulation that was completed on the day to which the report pertains. Such a report is not required if no such transactions were completed on that day.

(b) A monthly report of all securities held at the third-party depository on behalf of the depository for the benefit of the State Treasurer as of the end of the last business day of the month to which the report pertains.

2. *The reports required by subsection 1 must be submitted:*

(a) On or before the deadlines established by the State Treasurer for submission of the reports;

(b) In a format approved by the State Treasurer; and

(c) By file transfer protocol, electronic mail, facsimile, telephone or any other method approved by the State Treasurer.

3. *If a depository had elected to use the Federal Reserve Bank as its third-party depository, the reporting requirements set forth in the Operating Circulars of the Federal Reserve Banks governing book-entry securities apply.*

Sec. 16. *For the purposes of carrying out NRS 356.300 to 356.390, inclusive, the State Treasurer will:*

1. *Ensure that:*

(a) An agreement to pledge and maintain collateral against the uninsured deposits of a public depositor that participates in a collateral pool has been executed pursuant to section 12 of this regulation with each depository that maintains a collateral pool.

(b) An agreement to pledge and maintain collateral against the uninsured deposits of a public depositor that participates in a collateral pool has been executed with a third-party depository pursuant to section 12 of this regulation.

2. Notify a depository of its failure to maintain the minimum amount of acceptable securities as collateral that is required in an agreement executed pursuant to section 12 of this regulation within the deadlines established by the State Treasurer for such notification.

3. Make available by electronic mail, facsimile or on the Internet to authorized personnel of public depositors and depositories the reports submitted pursuant to sections 13 and 15 of this regulation.

4. Establish and maintain a recordkeeping system for the purpose of reviewing and analyzing the daily, weekly and monthly reports submitted by public depositors, depositories and third-party depositories pursuant to sections 13 and 15 of this regulation to:

(a) Monitor the type and minimum amount of collateral pledged by a depository at a third-party depository as security for the uninsured balances of deposits of public depositors that participate in a collateral pool at the depository;

(b) Ensure that any account opened at a depository by a public depositor that participates in a collateral pool at the depository is reported for the purposes of NRS 356.360; and

(c) Ensure compliance with an agreement executed pursuant to section 12 of this regulation.

5. Maintain a current list of participating public depositors, depositories and third-party depositories.

6. Establish and maintain an electronic database for the purposes of the receipt of reports submitted pursuant to sections 13 and 15 of this regulation.

Sec. 17. 1. *A public depositor may withdraw from a collateral pool at a depository by providing written notification of its intent to withdraw to the State Treasurer and the depository, including, without limitation, the effective date of withdrawal. The effective date of withdrawal must be more than 90 days after the State Treasurer receives written notification from the public depositor pursuant to this subsection.*

2. *Until the effective date of withdrawal of the public depositor, the depository of the withdrawing public depositor shall:*

(a) *Maintain the minimum amount of acceptable securities as collateral that is required in the agreement executed pursuant to section 12 of this regulation;*

(b) *Continue to provide the reports required pursuant to section 13 of this regulation; and*

(c) *Remain liable for any losses incurred by the collateral pool.*

Sec. 18. *The State Treasurer will impose an administrative fine not to exceed:*

1. *One hundred dollars per day against a depository that willfully fails to submit a report required pursuant to section 13 of this regulation by the deadline established by the State Treasurer for submission of the report.*

2. *Two hundred fifty dollars per day against a depository that willfully fails to maintain the minimum amount of acceptable securities as collateral that is required in an agreement executed pursuant to section 12 of this regulation.*

Sec. 19. 1. *The State Treasurer hereby adopts by reference the Operating Circulars of the Federal Reserve Bank. These publications are available, free of charge, from the Federal Reserve Bank of Boston, 600 Atlantic Avenue, Boston MA 02210.*

2. *The State Treasurer will periodically review the Operating Circulars and determine within 30 days after the review whether any change made to a Circular is appropriate for*

application in this state. If the State Treasurer does not disapprove a change to a Circular within 30 days after the review, the change is deemed to be adopted by the State Treasurer.