

TC17 Deposit of Securities [Section 11-109-104(1)(a), C.R.S.]

A. Purpose. The purpose of this Rule is to protect the Division of Banking against any expense it may incur in liquidating a non-depository trust company (~~nondeposit-taking trust company~~) when the assets of such trust company available to the Division of Banking for this purpose are insufficient.

B. Definitions: For the purpose of this Rule:

1. "Non-depository trust company" shall mean a Colorado trust company that is not authorized to accept or hold savings deposits, time deposits or certificates of deposit pursuant to Section 11-109- 201(1)(d), C.R.S., of the Colorado Banking Code.

~~2. "Depository trust company" shall mean a Colorado trust company that is authorized to accept and hold savings deposits, time deposits and certificates of deposit and whose deposits are insured by the Federal Deposit Insurance Corporation.~~

~~0.2.~~ "Eligible Securities" shall mean any U.S. Government or U.S. Government agency security that is unconditionally guaranteed by the U.S. Government. This includes a deposit that is insured or otherwise unconditionally guaranteed by the FDIC. ~~any investment or security that qualifies as Liquid Capital, as that term is defined in Banking Board Rule TC13-5.~~

~~0.3.~~ "Custodian" shall mean any commercial bank, trust company, depository trust company, or other entity approved by the Division of Banking, other than the trust company, for which the eligible securities are being held, approved by the State Bank Commissioner to hold in custody eligible securities.

C. Deposit of Eligible Securities

1. A non-depository trust company shall deposit with one or more custodians eligible securities having a market value of not less than \$250,000. Eligible securities, even if commingled with other assets of ~~athe~~ trust company, shall be deemed by operation of law to be held in trust for the benefit of the Division of Banking in the event of the involuntary liquidation of ~~athe~~ trust company. Upon deposit, ~~athe~~ trust company shall notify the Division of Banking in writing of the name, address, and telephone number of each custodian and the identity and value of each of the eligible securities deposited with the custodian(s).

~~0.2.~~ The Custodial Agreement between a non-depository trust company and a custodian holding the eligible securities shall include the following:

"Upon receiving an Order issued by the Colorado State Banking Board that it is taking possession of and seizing the eligible securities hereunder, the custodian shall immediately surrender title and possession of such eligible securities to the State Bank Commissioner. The custodian(s) shall not be liable for any such relinquishment of the eligible securities undertaken in good faith and upon notice that appears valid on its face."

~~0.3.~~ A non-depository trust company shall include with each quarterly Consolidated Report of Condition and Income filed with the Division of Banking a list of the eligible securities on deposit with its custodian(s), together with the market value of the eligible securities as of the end of such quarter.

4. A non-depository trust company may, from time to time, substitute other eligible securities for eligible securities on deposit with its custodian(s) provided that:
- a. The market value of the substitute eligible securities will, when added to the value of the remaining eligible securities, equal or exceed the amount of the required deposit;
 - b. The Division of Banking is given not less than seven (7) days prior written notice identifying the eligible securities and the market value of the eligible securities to be withdrawn from the custodian(s), and listing the eligible securities and the market value of the eligible securities to be substituted therefore; and
 - c. A copy of the notice sent to the Division of Banking is sent to the custodian(s).

D. Priority of ~~e~~D~~i~~vision of ~~b~~B~~a~~nk~~i~~ng.

In the event of the involuntary liquidation of a non-depository trust company, as provided in Sections 11-109-702 and 11-109-704, C.R.S., the custodian(s) shall immediately surrender the eligible securities to the Banking Board; and the Division of Banking shall have a first and prior claim against the eligible securities to satisfy the obligations incurred by the Division of Banking in carrying out its duties and responsibilities under Sections 11-109-702 and 11-109-704, C.R.S.