

135-3-01

**Ohio Pooled Collateral Program.****(A) As used in this section:**

- (1) "Financial institution" refers to any institution designated as a public depository pursuant to section 135.01 of the Revised Code, and any institution which receives or holds any public deposits as defined in section 135.31 of the Revised Code, or which receives or holds any funds from a public depositor as defined in section 135.182(A)(2) of the Revised Code.
- (2) "Ohio pooled collateral program" (OPCP) refers to the program, created by the treasurer of state pursuant to section 135.182(B)(1) of the Revised Code, in which each financial institution that selects the pledging method prescribed in section 135.18(A)(2) of the Revised Code or section 135.37(A)(2) of the Revised Code, shall pledge to the treasurer of state a pool of eligible securities for the benefit of all public depositors at the public depository to secure the repayment of uninsured public deposits at the public depository, and, if applicable, collateral dedicated to a specific public depositor, provided that the total market value of the securities so pledged is at least equal to the amounts required by section 135.182 of the Revised Code.
- (3) "Ohio pooled collateral system" (OPCS) refers to the system created and maintained by the treasurer of state to facilitate financial institution and public unit participation in OPCP via a publicly-available website and private portal access.
- (4) "Pooling method" refers to the method of pledging a security or securities using OPCP, as prescribed in section 135.18(A)(2) or section 135.37(A)(2) of the Revised Code.
- (5) "Public deposits" refers to moneys of a public depositor as defined in section 135.182(A)(3) of the Revised Code, but for the purposes of these rules herein, does not include the moneys of metropolitan housing authorities, public or Indian housing agencies, or United States federal agencies.
- (6) "Public unit" refers to the state or a subdivision thereof, as applicable, that deposits public moneys with a public depository pursuant to sections 135.01 to 135.21 of the Revised Code.
- (7) "Public unit negotiated collateral requirement" refers to a collateral requirement negotiated by a public unit with its financial institution which may differ from the statutory collateral requirement.
- (8) "Specific pledge method" refers to the method of separately securing uninsured public deposits of a public depositor, as prescribed in section 135.18(A)(1) of the Revised Code.
- (9) "Specific pledge account" refers to an account containing a security or securities

pledged for the benefit of one specific public unit by a financial institution participating in the pooling method. A financial institution may be permitted to use the specific pledge account if: the charter for the public unit requires use of the specific pledge method; United States federal law designates the specific pledge method for the public unit; or it is permitted at the discretion of the treasurer of state. Under this method, the financial institution will secure all uninsured deposits for the account at least equal to the requirement for specific pledge method.

(10) "Statutory collateral requirement" refers to the amount of collateral required for financial institutions in OPCP pursuant to section 135.182 of the Revised Code.

(B) Pursuant to sections 135.18(A) and 135.37(A) of the Revised Code, a financial institution must select the pooling method, specific pledge method, or, if applicable, a specific pledge account.

(1) Notwithstanding a specific pledge account as permitted pursuant to division (A)(9) of this rule, a financial institution may not use both the pooling method and the specific pledge method.

(2) A financial institution must proactively select the pooling method by applying to the OPCP and, if applicable, applying for a specific pledge account. If a financial institution does not apply for OPCP or provide a letter of intent pursuant to division (C) of this rule, the financial institution will be required to be compliant with the specific pledge method on July 1, 2017.

(C) If a financial institution meeting the minimum requirements under section 135.182 of the Revised Code submits a certified letter of intent to the treasurer of state on or before June 30, 2017 affirming its commitment to apply to OPCP, the financial institution will be granted a grace period until December 31, 2017, or at a later date as otherwise determined by the treasurer of state, in which to transition to OPCP.

(1) A certified letter is a notarized letter of intent signed by an individual with the authority to bind and obligate the financial institution.

(2) The treasurer of state will send notice of acceptance or non-conformance of the letter of intent within ten business days of receipt by the treasurer of state. A letter of intent is not deemed approved until notice of acceptance is sent by the treasurer of state.

(3) If a financial institution is granted this grace period, the financial institution will be deemed in compliance with sections 135.18(A) and 135.182(B)(1) of the Revised Code during the grace period.

(4) If a financial institution does not submit a qualifying letter of intent on or before June 30, 2017, the financial institution must be compliant with the specific

pledge method on July 1, 2017.

- (5) Upon implementation of the OPCP, a public depositor will be deemed compliant with sections 135.18(C) and 135.37 (C) of the Revised Code if:

  - (a) Their financial institution is granted a grace period pursuant to division (C) of this rule; or
  - (b) The requirements of section 135.18(C) or 135.37(C) of the Revised Code are met.
- (6) If, after submitting a letter of intent, the financial institution is not approved for OPCP, or does not ultimately apply for OPCP, it must transition to the specific pledge method for all public depositors as soon as commercially reasonable, but no later than December 31, 2017, or at a later date as otherwise determined by the treasurer of state.
- (7) Notwithstanding the foregoing, on July 1, 2017 all public deposits in financial institutions not accepted into OPCP must be collateralized at an amount equal to at least one hundred five percent of the total amount of the public depositor's uninsured public deposits, pursuant to section 135.18(B) of the Revised Code.
- (D) Only a financial institution may apply for OPCP. Individual branches may not apply. The financial institution shall provide evidence of the following for application to OPCP:

  - (1) The current financial condition of the financial institution, including evidence of sufficient capitalization;
  - (2) Ability of the financial institution to maintain separate, accurate, and complete records relating to the pledge of collateral, deposits of public funds, and transactions related to the pledges of collateral;
  - (3) Ability of the financial institution to meet all OPCP reporting requirements; and
  - (4) Selection of a qualified approved collateral trustee and ability to execute trustee agreements with each trustee and the treasurer of state.
- (E) A financial institution will not be approved for OPCP if:

  - (1) It is not an eligible public depository pursuant to section 135.03 of the Revised Code;
  - (2) It does not use a qualified trustee pursuant to section 135.182(C) of the Revised Code; or

- (3) It does not comply with the reporting requirements pursuant to section 135.182(B)(2) of the Revised Code.
- (F) If a financial institution is not approved for OPCP, it will be notified in writing by the treasurer of state, and must meet the requirements of the specific pledge method.
- (G) Prior to use of OPCS, a financial institution must complete an agreement for each of its public depositors.

  - (1) This agreement shall specify the agreed upon collateral rate for each account.
  - (2) This agreement must be mutually agreed upon and signed by individuals with the authority to obligate and bind the financial institution and the public unit.
  - (3) An original copy of this agreement shall be provided to the public unit, and an original copy shall be maintained by the financial institution, to be made immediately available to the treasurer of state upon request.
  - (4) This agreement shall be updated on a continuing basis, as agreed to by the financial institution and the public unit(s).
- (H) Public units shall participate in OPCP in the following methods:

  - (1) The treasurer of state will provide market pricing of all collateral and publish the reports on OPCS portal. Public units shall be responsible for reviewing and monitoring the reports posted, verifying the accuracy of reports of their itemized deposits, and reporting any discrepancies to their financial institution.
  - (2) The treasurer of state will provide OPCS access to the public units.
  - (3) Public units shall periodically certify account details, including, but not limited to deposit balances, and contact details, in accordance with section 135.182(B)(2) of the Revised Code.
  - (4) Public units may negotiate a public unit negotiated collateral requirement for individual accounts with their financial institution, which may be higher than the statutory collateral requirement.

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under:	111.15
Statutory Authority:	135.48
Rule Amplifies:	135.182