

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Treasurer of State

Regulation/Package Title: Ohio Pooled Collateral Program

Rule Number(s): 135-3-01

Date: February 28, 2017

Rule Type:

- | | |
|---|--|
| <input checked="" type="checkbox"/> New | <input type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Rescinded |

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

This rule will permit the office of the Ohio Treasurer of State (“Treasurer’s Office”) to fulfill its obligation required by Ohio Revised Code (“R.C.”) 135.182 to create and implement the

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Ohio Pooled Collateral Program. The proposed rule will govern the transition of public depositories and local governments into the program. In addition, the rule will govern admittance into the program and the methods in which local governments will participate in the program.

The Ohio Pooled Collateral Program is optional for public depositories, and the Ohio Revised Code offers another method for collateralizing public deposits.

The proposed rule will do the following:

- Govern the transition of public depositories and local governments into the program.
- Outline the application requirements for public depositories.
- Outline the methods in which local governments will participate in the program.
- Outline how collateral trustees will participate in the program.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 135.182 charges the Treasurer's Office with the creation and implementation of the Ohio Pooled Collateral Program. This proposed rule is adopted by the Ohio Board of Deposit under R.C. 135.48 with the Treasurer's Office acting as agent.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

No

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The public purpose of this rule is to ensure that public monies are properly collateralized under the R.C. and to allow for transition of public depositories into the Ohio Pooled Collateral Program.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Treasurer's Office will measure the success of this rule by examining how smoothly public depositories and local governments transition into the Ohio Pooled Collateral Program. Additionally, the office will measure the success of this rule by

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the volume of participation in the program by public depositories and local governments.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

The Stakeholders that were included in the development of the draft regulation included the following:

First	Last
Robert	Palmer
Mike	Vynalek
Shantel	Laird
Mike	Sams
Tom	Ruebel
Ashley	Westcott
Patrick	McCarthy
Chuck	Dixon
Todd	Bailey
Roger	Grywalski
Julio	Ortiz
Matt	Alexander
Eric	Pace
Mark	Duhamel
George	Sesock
Jeff	Sirota
Chris	Christoff
Shawn	Bunt
Lara	DeLeone
Chris	Pugliese
Maureen	Grant
Janet	Schlifer
Kathleen	Byrne
Jay	Fortlage
Larry	Whelan
Beth	Dallinga
Eric	Meilstrup
Bradley	Ruppert
Bruan	Marshall

Dustin	Holfinger
Sandy	Hoehne
April	Dusthimer
Paul	Turner
Patrick	Graham
David	Nickerson
Thomas	Lamb
Melissa	Bitzer
Mark	Metz
Brett	Murawski
Patti	Jackson
Liza	Kovac
Scott	Horan
Allison	Thellman
Laura	Murphy
Tony	Brigano
Kevin	Ackerman
Marsha	Davis
Rachel	Weaver
Barbara	Scheiderer
James	Nikolia
Karen	Bigelow
Tim	Rieder
Teresa	Moon
Michael	Sheridan
J.	Heagy
J.	Murtha
B.	Brubaker
D.	Skowronski
R.	Dottavio
Anna	Durst
Suzanne	Parks
Jill	Thompson
Fran	Lesser
Brad	Cole
Cheryl	Subler
Tom	Steenrod
Jim	Aumann
Kevin	Futryk
Steve	Welton

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Steve	Metzger
David	Varda
Barbara	Shaner
Josh	Brown
Ed	Albright
Jeff	Rayis
Heidi	Fought
Amy	McMahon
Jeff	Smith
Laura	Brown
Christopher	Hopkins
Linda	Simko

Division D was circulated to the public depository interested parties on October 20, 2016 at an in person meeting and also via electronic mail.

All divisions contained within this rule were shared with the list above via electronic mail on January 13, 2017 and feedback the rule was requested.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Please see the attached document regarding feedback received and the impact on the draft regulation

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

N/A

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Treasurer's Office considered not requesting the attached rule, but after discussions with the interested parties determined that a rule was necessary to provide for a smooth transition into the Ohio Pooled Collateral Program.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

No the Treasurer's Office did not consider performance-based regulation, because a performance-based regulation was not possible for this purpose.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

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The Treasurer's Office reviewed applicable sections of the Ohio Revised Code and the Ohio Administrative Code to ensure that we did not duplicate any existing regulations. The Ohio Pooled Collateral Program is a new program that takes the place of the previous pooling method permitted under the Ohio Revised Code.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Treasurer's Office will implement this rule through our office with the creation of the Ohio Pooled Collateral Program and the operating policies for the program. The operating policies will ensure that the measures included in this rule are applied uniformly to all participants in the program.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- **Identify the scope of the impacted business community;**
- **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- **Quantify the expected adverse impact from the regulation.**

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The scope of impacted business community includes financial institutions that apply for and are approved as public depositories. Those entities must also apply for and be selected to hold public deposits by the state or local government. However, the Ohio Pooled Collateral Program is optional for public depositories and the Ohio Revised Code offers another method for collateralizing public deposits.

This proposed rule will have an impact on the business community, but we believe a positive impact since it provides a transition phase into the Ohio Pooled Collateral Program. The Ohio Revised Code does not grant a transition period to public depositories and would require extensive work without the proposed rule.

The Ohio Pooled Collateral Program will require time for compliance by public depositories. The Treasurer's Office does not have an estimate of the impact since it

will differ for each financial institution depending on a variety of factors and a public depository is not required to use the program to collateralize their public deposits.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Treasurer's Office determined that the regulatory intent justifies the impact to the business community, because the Ohio Revised Code requires the Treasurer's Office to create and implement the program, which is voluntary for public depositories. The Ohio Revised Code offers another option for collateralizing public deposits.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The Ohio Revised Code offers another option for collateralizing public deposits.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The proposed rule does not include any fines or penalties.

18. What resources are available to assist small businesses with compliance of the regulation?

The Treasurer's Office will adopt operating policies for the program to assist financial institutions with compliance.