

*** DRAFT - NOT YET FILED ***

1301:1-2-02

Trust company capital.

(A) In evaluating the adequacy of a trust company's capital, the superintendent of financial institutions shall consider all of the following:

- (1) The nature and volume of the trust company's business, including whether the trust company is primarily engaged in trust business or primarily engaged in banking business;
- (2) The amount, nature, quality, and liquidity of the trust company's assets;
- (3) The amount and nature of the trust company's liabilities, including those that are not presently due or are contingent;
- (4) The amount and nature of the trust company's fixed costs;
- (5) The history of and prospects for the trust company to earn and retain income;
- (6) The quality of the trust company's operations;
- (7) The quality of the trust company's management;
- (8) The nature and quality of the trust company's ownership;
- (9) The nature, terms, and extent of the trust company's insurance coverage, including deductibles, limitations, and exclusions;
- (10) If the trust company is a corporation organized under the laws of another state or country and authorized to accept and execute trusts in that state or country, the assessment of the trust regulatory authority of that state or country, if any, of the adequacy of the trust company's capital;
- (11) Any other factor the superintendent finds to be relevant under the circumstances.

(B)

- (1) Except as provided in paragraph (B)(2) of this rule, if a trust company is engaged only in trust business, all of the following apply:

- (a)
 - (i) The trust company shall maintain capital in the amount the superintendent determines after considering the factors listed in paragraph (A) of this rule and, except as provided in paragraph (B)(1)(a)(ii) of this rule, the amount shall be not less than \$3,000,000 not including the trust company's fixed assets or any assets the trust company has pledged to any person other than the treasurer of state of the state of Ohio pursuant to section 1111.04 of the Revised Code.
 - (ii) Only a trust company that demonstrates extraordinary circumstances to the superintendent warranting the conclusion its capital is adequate may maintain capital of less than \$3,000,000, not including the trust company's fixed assets or any assets the trust company has pledged to any person other than the treasurer of state of the state of Ohio pursuant to section 1111.04 of the Revised Code. A conclusion by the superintendent under this provision that a trust company's capital is adequate does not preclude the superintendent subsequently concluding the trust company's capital is no longer adequate and requiring the trust company to maintain a higher level of capital.
- (b) If a trust company is newly organized, the trust company's minimum capital shall include an amount the superintendent finds likely to be sufficient to absorb the trust company's operating losses until the trust company can reasonably be expected to have income sufficient to cover its operating costs.
- (c) The trust company shall invest its minimum capital only in the following:
 - (i) Bonds, bills, notes, or other debt securities of the United States or for which the full faith and credit of the United States is pledged for payment of principal and interest;
 - (ii) Bonds, notes, or other debt securities issued by this state, or any other state of the United States, that are the direct obligation of the issuer and for which the full faith and credit of the issuer is pledged to provide payment of the principal and interest;
 - (iii) Bonds, notes, or other debt securities of any county, municipal corporation, township, school district, improvement district,

sewer district, or other subdivision of this state or any other state of the United States that are the direct obligation of the county or the subdivision issuing them and for which the full faith and credit of the issuing county or subdivision is pledged to provide payment of principal and interest;

- (iv) Bonds or other debt obligations issued or guaranteed by agencies or instrumentalities of the United States, regardless of the guarantee of payment of principal and interest by the United States;
- (v) Subject to conditions and restrictions the superintendent may prescribe, bonds, debentures, and other debt securities issued by any country or multinational organization that are the direct obligation of the issuing country or multinational organization and for which the full faith and credit of the issuing country or multinational organization is pledged to provide payment of principal and interest;
- (vi) Bankers' acceptances of the kinds described in divisions (B) and (C) of section 1109.17 of the Revised Code;
- (vii) Subject to conditions and restrictions the superintendent may prescribe, bonds, debentures, and other debt securities and obligations of any state or political subdivision of a state, a public corporation, or governmental agency that are payable solely out of anticipated revenues, commonly referred to as revenue bonds;
- (viii) As defined and restricted by the superintendent, marketable obligations evidencing the indebtedness of any corporation in the form of bonds, notes, debentures, or equipment trust certificates, commonly referred to as investment securities;
- (ix) Other bonds, debentures, and debt securities that are permissible investments for national banks that the superintendent may approve for investments by banks;
- (x) Deposits insured by the federal deposit insurance corporation;
- (xi) Registered investment companies whose investments consist solely of investments listed in paragraphs (B)(1)(c)(i) to (B)(1)(c)(x) of this rule;

- (xii) In the case of a newly organized trust company, to the extent authorized by the superintendent, transaction account deposits in federally insured depository institutions in excess of the federal deposit insurance limit.
- (2) If the trust company is a corporation organized under the laws of another state or country and authorized to accept and execute trusts in that state or country and the trust company's trust business is regulated by an authority of that state or country, the superintendent may determine the trust company's capital is adequate even if the trust company's capital is less than otherwise allowed by paragraph (B)(1)(a) of this rule and is invested other than otherwise required by paragraph (B)(1)(c) of this rule.
- (C) If a trust company is engaged primarily in the banking business, the superintendent shall determine the adequacy of the trust company's capital principally with regard to the trust company's banking business giving additional consideration to the risk posed by the trust company's trust business.
- (D) If a trust company is not engaged primarily in the banking business and is not engaged only in the trust business, the superintendent may apply to the trust company's capital any of the restrictions and requirements applicable to the capital of a trust company engaged only in trust business by paragraph (B) of this rule.

Five Year Review (FYR) Dates:

Certification

Date

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