

FINANCE AND ADMINISTRATION CABINET
State Investment Commission
(Amendment)

200 KAR 14:091. Guidelines for money market instruments.

RELATES TO: KRS ~~[41.610,]~~42.014(1), 42.500, 42.505-42.545

STATUTORY AUTHORITY: KRS 42.500(10), 42.520(2), 42.525

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.500(10) requires the State Investment Commission to promulgate administrative regulations for the investment and reinvestment of state funds. KRS 42.520(2) requires the commission to promulgate administrative regulations concerning the assignment of priorities to public depositories. KRS 42.525 requires the State Investment Commission to prescribe standards for the operation of the state's investment program. This administrative regulation establishes the standards which shall apply to the use of certain money market instruments which include bankers' acceptances, commercial paper, and negotiable collateralized and uncollateralized certificates of deposit.

Section 1. Definitions.

- (1) "Bankers' acceptance" means a short-term negotiable discount note drawn on and accepted by a bank or trust company which is obligated to pay the face value amount at maturity.
- (2) "Commercial paper" means an unsecured promissory obligation having a maturity of less than 270 days.
- (3) "Commission" means the State Investment Commission.
- (4) "NRSRO" means "Nationally Recognized Statistical Ratings Organization", which is a credit rating agency that is registered with the Securities and Exchange Commission, and which provides its opinion on the creditworthiness of an entity and the financial obligations issued by that entity.
- (5) "Office" means the Office of Financial Management.

Section 2. Bankers' Acceptances.

- (1) The office may purchase bankers' acceptances if rated in the highest short-term rating category by commission approved~~[an]~~ NRSRO.
- (2) The purchase of these instruments shall be:
 - (a) Made on a delivery versus payment basis; and
 - (b) Held in the Commonwealth's account in whatever depository shall be designated as eligible by the commission.
- (3)
 - ~~[(a)]~~ Investment in bankers' acceptances shall be made for a period of no longer than 180 days per investment.
 - ~~[(b)]~~ ~~[The total amount of the investment in this security shall not exceed the amount of twenty five (25) million dollars in one (1) institution at a time.]~~

Section 3. Commercial Paper.

- (1) The office may purchase commercial paper rated in the highest short-term rating category by commission approved~~[an]~~ NRSRO.
- (2) The purchase of these instruments shall be:
 - (a) Made on a delivery versus payment basis; and
 - (b) Held in the Commonwealth's account in whatever depository shall be designated as eligible by the commission.
- (3) ~~[The]~~ Investments in commercial paper shall be made for a period of no longer than 270 days per investment~~[and the total amount of the investment in this security shall not~~

~~exceed the amount of twenty-five (25) million dollars by any issuer at a time.~~

Section 4. Negotiable Certificates of Deposit, Collateralized and Uncollateralized.

(1) The office may purchase collateralized certificates of deposit if issued by banks rated in one (1) of the three (3) highest categories by commission approved~~[an]~~ NRSRO.

(2) The office may purchase uncollateralized negotiable certificates of deposit if issued by banks rated in one (1) of the two (2) highest categories by commission approved~~[an]~~ NRSRO~~[or subject to 200 KAR 14:200].~~

(3) The purchase of these instruments shall be:

(a) Made on a delivery versus payment basis; and

(b) Held in the Commonwealth's account in whatever depository shall be designated as eligible by the commission.

(4)

~~[(a)]~~ Investment in negotiable certificates of deposits shall be made for a period of no longer than 270 days per investment unless specifically authorized by KRS 41.610.

~~[(b)] [The total amount of investments in certificates of deposit shall not exceed the amount of twenty-five (25) million dollars in any one (1) institution at a time.]~~

Section 5. Limits of Money Market Instruments Per Pool. The aggregate investment in bankers' acceptances, commercial paper, and negotiable certificates of deposit shall not exceed thirty-five (35) percent of pool assets or \$25,000,000 per issuer. ~~[Limit of Money Market Instruments of the State's Total Portfolio. The aggregate investment in bankers' acceptances, commercial paper, and negotiable certificates of deposit shall not exceed thirty-five (35) percent of the Commonwealth's total investment portfolio.]~~

KIM BECHTEL, Deputy Executive Director

APPROVED BY AGENCY: August 14, 2024

FILED WITH LRC: August 15, 2024 at 8:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, October 23, 2024, at 10:00 a.m. Eastern time, at the Kentucky Finance and Administration Cabinet, Room C117, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on Thursday, October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Laura Sharp, Administrative Specialist III, Office of General Counsel, 200 Mero Street, 5th Floor, Frankfort, Kentucky 40622; phone (502)564-6660, fax (502)564-9875, email laura.sharp@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Laura Sharp

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation provides the direction for investment of state funds required by KRS 42.500(10).

(b) The necessity of this administrative regulation:

This regulation is required to place limitations on investment activities in order to limit the risk of loss of state funds through imprudent investment decisions.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 42.500(10) specifies particular requirements for this administrative regulation such as limits on the maturity of investments. This regulation specifies those particular limitations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation provides guidance on the investment of state funds and requires prudent investment activities which will limit the exposure of state funds to investment losses.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment contains primarily technical, formatting, and grammatical updates.

(b) The necessity of the amendment to this administrative regulation:

Technical, formatting, and grammatical changes are needed to maintain the regulation's clarity.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment is compliant with KRS 42.500(10).

(d) How the amendment will assist in the effective administration of the statutes:

The amendment further clarifies investment activities to reduce the risk of loss of state funds.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This regulation only affects actions by the Office of Financial Management.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The amendment clarifies technical aspects of the regulation for the Investment Commission.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

\$0.

(b) On a continuing basis:

\$0.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

None needed.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase is needed.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied?

There is no tiering because it is not applicable.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 42.500 requires the State Investment Commission to promulgate this regulation.
KRS 42.500 requires the State Investment Commission to promulgate this regulation.
Additionally, the regulation requires that the Limited Term pool be managed consistent with SEC Rule 2a-7 as required by current government accounting standards.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

None should be directly affected. This regulation only affects the investment actions of the Office of Financial Management.

(a) Estimate the following for the first year:

Expenditures:\$0

Revenues:\$0

Cost Savings:\$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

No subsequent year impacts on expenditures, revenues, or cost savings are expected.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

None should be directly affected. This regulation only affects the investment actions of the Office of Financial Management.

(a) Estimate the following for the first year:

Expenditures:\$0

Revenues:\$0

Cost Savings:\$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

No subsequent year impacts on expenditures, revenues, or cost savings are expected.

(4) Identify additional regulated entities not listed in questions (2) or (3):

None should be directly affected. This regulation only affects the investment actions of the Office of Financial Management.

(a) Estimate the following for the first year:

Expenditures:\$0

Revenues:\$0

Cost Savings:\$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

No subsequent year impacts on expenditures, revenues, or cost savings are expected.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

None.

(b) Methodology and resources used to determine the fiscal impact:

The regulation is being amended to bring it into alignment with current Office of Financial Management practice.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

No major economic impact is expected.

(b) The methodology and resources used to reach this conclusion:

The regulation is being amended to bring it into alignment with current Office of Financial Management practice.