

**304.7-360 Definitions -- Deposits allowed -- Commingling of certain securities -- Records -- Rules and regulations.**

- (1) As used in this section:
  - (a) "Clearing corporation" shall be defined as provided in KRS 355.8-102(3) except that, with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "clearing corporation" may include a corporation organized or existing under the laws of any foreign country which is legally qualified under such laws to effect transactions in securities by computerized book entry;
  - (b) "Custodian bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System which acts as custodian of all or any part of an insurance company's securities;
  - (c) "Direct participant" means a bank, trust company, or other institution which maintains an account in its name in a clearing corporation and through which an insurance company participates in a clearing corporation;
  - (d) "Federal reserve book-entry system" means the computerized systems sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and such agencies and instrumentalities, respectively, in federal reserve banks through banks which are members of the Federal Reserve System or which otherwise have access to such computerized systems;
  - (e) "Member bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System through which an insurance company participates in the federal reserve book-entry system;
  - (f) "Security" means a certificated security or an uncertificated security;
  - (g) "Certificated security" means a share, participation or other interest in property or an enterprise of the issuer or an obligation of the issuer which is represented by an instrument issued in bearer or registered form, of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment, and either one (1) of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations; and
  - (h) "Uncertificated security" means a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer, of a type commonly dealt in on securities exchanges or markets; and either one (1) of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

- (2) Notwithstanding any other provision of law, an insurance company or its custodian bank may deposit or arrange for the deposit of securities held in or purchased for the general account and the separate accounts of such insurance company in a clearing corporation or the federal reserve book-entry system. When securities are deposited with a clearing corporation, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited with such clearing corporation by any person, regardless of the ownership of such securities, and certificates representing securities of small denominations may be merged into one (1) or more certificates of larger denominations. The records of any member bank through which an insurance company holds securities in the federal reserve book-entry system, and the records of any direct participant through which an insurance company holds securities in a clearing corporation, shall at all times show that such securities are held for such insurance company or its custodian bank and for which accounts thereof. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such clearing corporation or in the federal reserve book-entry system without, in either case, physical delivery of certificates representing such securities.
- (3) Notwithstanding any other provision of law, an insurance company may deposit securities held in or purchased for its general account and its separate accounts in a custodial account with a custodian bank approved by, and under a custodial agreement approved by, the commissioner. When securities are deposited in such custodial account, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the custodian bank or its nominee with any other securities held in the custody of the custodian bank or its nominee by any person, regardless of the ownership of such securities, and certificates representing securities of small denominations may be merged into one (1) or more certificates of larger denominations. The records of the custodian bank which holds securities for an insurance company in a custodial account shall at all times show that such securities are held for such insurance company and for which accounts thereof. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such custodian bank without physical delivery of certificates representing such securities.
- (4) The same bank or trust company may act as direct participant, member bank, and custodian bank for an insurance company.
- (5) The commissioner of insurance shall promulgate rules and regulations governing the deposit by insurance companies of securities with clearing corporations and in the federal reserve book-entry system and with custodian banks.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1012, effective July 15, 2010. -- Created 1982 Ky. Acts ch. 258, sec. 1, effective July 15, 1982.