

**304.7-014 Application -- Investments that may be acquired and held as admitted assets -- Computation of limitations based on admitted assets -- Documentation -- Agreements to purchase securities in advance of their issuance -- Order to limit investment practice.**

- (1)
  - (a) Insurers may acquire, hold, or invest investments or engage in investment practices as set forth in this subtitle. Investments not conforming to this subtitle or otherwise expressly allowed in this chapter shall not be admitted assets.
  - (b) This subtitle shall apply to investments and investment practices of domestic insurers and United States branches of alien insurers entered through this state. This subtitle shall not apply to separate accounts of an insurer except to the extent that the provisions of KRS 304.7-240 so provide.
- (2) Subject to subsection (3) of this section, an insurer shall not acquire or hold an investment as an admitted asset unless at the time of acquisition it is:
  - (a) Eligible for the payment or accrual of interest or discount, whether in cash or other securities, eligible to receive dividends or other distributions, or is otherwise income producing; or
  - (b) Acquired under KRS 304.7-413(3), 304.7-415, 304.7-419, 304.7-423, 304.7-465(3), 304.7-467, 304.7-471, or 304.7-473, or under the authority of sections of the code other than in this subtitle.
- (3) An insurer may acquire or hold as admitted assets investments that do not otherwise qualify under this subtitle if the insurer has not acquired them for the purpose of circumventing any limitations contained in this subtitle, if the insurer acquires the investments in the following circumstances and the insurer complies with the provisions of KRS 304.7-363 as to the investments:
  - (a) As payment on account of existing indebtedness or in connection with the refinancing, restructuring, or workout of existing indebtedness, if taken to protect the insurer's interest in that investment;
  - (b) As realization on collateral for an obligation;
  - (c) In connection with an otherwise qualified investment or investment practice, as interest on a dividend, other distribution related to the investment, investment practice, or in connection with the refinancing of the investment, in each case for no additional or only nominal consideration;
  - (d) Under a lawful and bona fide agreement of recapitalization, voluntary, or involuntary reorganization in connection with an investment held by the insurer; or
  - (e) Under a bulk reinsurance, merger, or consolidation transaction approved by the commissioner if the assets constitute admissible investments for the ceding, merged, or consolidated companies.
- (4) A foreign insurer that becomes a domestic insurer in accordance with KRS 304.24-500 may hold as admitted assets investments that do not otherwise qualify under this subtitle if the investments were qualified as admitted assets in the insurer's former state of domicile immediately prior to the insurer's becoming a Kentucky

domestic insurer, if the insurer has not acquired the investments for the purpose of circumventing any limitations contained in this subtitle and if the insurer complies with the provisions of KRS 304.7-363 as to the investments.

- (5) An investment or portion of an investment acquired by an insurer under subsections (3) or (4) of this section shall become a nonadmitted asset three (3) years, or five (5) years in the case of mortgage loans and real estate, from the date of its acquisition, unless within that period the investment has become a qualified investment under this subtitle other than subsections (3) or (4) of this section, but an investment acquired under an agreement of bulk reinsurance, merger, or consolidation may be qualified for a longer period if so provided in the plan for reinsurance, merger, or consolidation as approved by the commissioner. Upon application by the insurer and a showing that the nonadmission of an asset held under subsections (3) or (4) of this section would materially injure the interests of the insurer, the commissioner may extend the period for admissibility for an additional reasonable period of time.
- (6) Except as provided in subsections (7) and (9) of this section, an investment shall qualify under this subtitle if, on the date the insurer committed to acquire the investment or on the date of its acquisition, it would have qualified under this subtitle. For the purposes of determining limitations contained in this subtitle, an insurer shall give appropriate recognition to any commitments to acquire investments.
- (7)
  - (a) An investment held as an admitted asset by an insurer on July 14, 2000 that qualified under this subtitle shall remain qualified as an admitted asset under this subtitle.
  - (b) Each specific transaction constituting an investment practice of the type described in this subtitle that was lawfully entered into by an insurer and was in effect on July 14, 2000 shall continue to be permitted under this subtitle until its expiration or termination under its terms.
- (8) Unless otherwise specified, an investment limitation computed on the basis of an insurer's admitted assets or capital and surplus shall relate to the amount required to be shown on the statutory balance sheet of the insurer most recently required to be filed with the commissioner. For purposes of computing any limitation based upon admitted assets, the insurer shall deduct from the amount of its admitted assets the amount of the liability recorded on its statutory balance sheet for:
  - (a) The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction;
  - (b) Cash received in a dollar roll transaction; and
  - (c) The amount reported as borrowed money in the most recently filed financial statement to the extent not included in paragraphs (a) and (b) of this subsection.
- (9) An investment qualified, in whole or in part, for acquisition or holding as an admitted asset may be qualified or requalified at the time of acquisition or a later date, in whole or in part, under any other section of this subtitle, if the relevant

conditions contained in the other section of this subtitle are satisfied at the time of qualification or requalification.

- (10) An insurer shall maintain documentation demonstrating that investments were acquired in accordance with this subtitle, and specifying the section of this subtitle under which they were acquired.
- (11) An insurer shall not enter into an agreement to purchase securities in advance of their issuance for resale to the public as part of a distribution of the securities by the issuer, or otherwise guarantee the distribution, except that an insurer may acquire privately placed securities with registration rights.
- (12) Notwithstanding the provisions of this subtitle, the commissioner, for good cause, may order under the state's administrative regulations, an insurer to nonadmit, limit, dispose of, withdraw from or discontinue an investment or investment practice. The authority of the commissioner under this subsection is in addition to any other authority of the commissioner.
- (13) Insurance futures and insurance futures options are not considered investments or investment practices for the purposes of this subtitle.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1009, effective July 15, 2010. -- Created 2000 Ky. Acts ch. 388, sec. 2, effective July 14, 2000.