

CHAPTER 5

DEPOSITS AND INVESTMENTS

Depository and investment regulations for political subdivisions from Ohio Rev. Code Chapter 135 generally apply to all public offices, other than to charter municipalities which have exempted themselves by charter or ordinance and community schools.^{1 2} (See the OCS Legal Matrices Appendix for more specific guidance regarding the applicability of the requirements in this chapter to particular entity types.) Auditors should design audit procedures based on charter municipalities’ own investment and deposit provisions. Provisions of Chapter 135 relating to counties are separate from those pertaining to other subdivisions.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: In assessing the risk of noncompliance, auditors should consider whether governments have adopted detailed deposit and investment policies and historically complied with those policies. Additionally, adequate training, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with deposits and investments requirements.

In assessing the adequacy of *policies*, remember ORC 135 *is* a policy in many respects. For example, it prescribes allowable investments, collateral requirements, etc. designed to help safeguard assets. However, Step 5-2 requires governments to adopt their own policy based on RC 135.

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¹ While charter governments can exempt themselves from Ohio Rev. Code Chapter 135, they cannot exempt themselves from Ohio Constitutional requirements. Therefore charter governments cannot purchase equity securities, because Ohio Constitution Article VIII, Sections 4 and 6 prohibit public bodies from becoming a “stockholder in any joint stock company, corporation or association.”

² In some cases, *cash held by a fiscal agent* may not be public moneys subject to Ohio Rev. Code Chapter 135. Ohio Rev. Code §135.01(k) defines public moneys of a political subdivision as “all such moneys coming lawfully into the possession of the treasurer of the subdivision.” Moneys held by a trustee (e.g., for entities participating in certain asset pools such as the OASBO Expanded Asset Pool program) are not considered public moneys until they are disbursed to the political subdivision. Therefore, these moneys are excluded from Ohio Rev. Code Chapter 135 requirements until they are spent. Such moneys would also be disclosed as uncollateralized deposits for reporting purposes under GASB 40.

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Section A: Subdivisions Other Than Counties

Revised: HB 209 and HB

225, 129th GA

Effective: 3/22/12

HB 487, 129th GA

Effective: 9/10/12

5-1 Compliance Requirement: Ohio Rev. Code §135.14, §135.144 and §133.03(A)(1), 12 CFR 370 – Eligible investments for **interim** monies; section 135.13: **inactive** deposits and maturities.

Summary of Requirements:

- Investments must mature within 5 years from the settlement date, unless the investment is matched to a specific obligation or debt of the subdivision, or unless other provisions apply. [Ohio Rev. Code §135.14(D)]
- The following classifications of obligations are eligible for such investment or deposit:
 - United States obligations or any other obligation guaranteed as to principal and interest by the United States.⁴ This law prohibits investing in stripped principal or interest obligations. [Ohio Rev. Code §135.14(B)(1)]
 - Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality. All federal agency securities must be direct⁵ issuances of federal government agencies or instrumentalities. [Ohio Rev. Code §135.14(B)(2)]
 - Interim deposits in the eligible institutions applying for interim monies as provided in Ohio Rev. Code §135.08. [Ohio Rev. Code §135.14(B)(3)]
 - Per 135.13, *Interim deposits* are certificates of deposit⁶ maturing not more than one year from the deposit date, or savings or deposit accounts, including passbook accounts.
 - HB 209, effective 3/22/12, temporarily eliminated the one-year maturity limitation on certificates of deposit of interim deposits (ORC 135.13) and HB 225, also effective 3/22/12,

⁴ See appendix A for a list of agencies the Federal government guarantees.

⁵ An example of an *indirect* issuance would be a FNMA CMO (collateralized mortgage obligation), where FNMA pools mortgages it guarantees. However, the mortgages are not a direct issuance of FNMA.

⁶ It is the position of the Auditor of State that Ohio Rev. Code §135.03 & §135.32 prohibit purchasing certificates of deposit (negotiable or otherwise) from a bank unless the CD is subject to inspection by the Ohio Superintendent of Financial Institutions. Ohio is part of a nationwide cooperative agreement for examining multi-state banks in which these states agreed to recognize each other's supervisory authority for banks headquartered in another state but doing business in theirs. Therefore, it is reasonable to conclude that a multi-state bank in a state subject to this agreement is subject to inspection by Ohio's Superintendent of Financial Institutions. Multi-state banks are eligible to become a public depository for Ohio's governmental entities, subject to sections 135.01 to 135.21 of the Ohio Rev. Code. The bank should be registered with the Ohio Secretary of State to be an eligible public depository in Ohio. A government cannot purchase negotiable or nonnegotiable CDs unless the governing body has designated the bank as eligible to hold interim or inactive deposits. See ADAM 2002-05. (Ohio Rev. Code §135.144 provides an exception to this general rule regarding out-of-state CDs. See description of 135.144 requirements in this step.)

temporarily increased the maturity period from five years to ten years (ORC 135.35(C)). After an affirmative vote of the County's investment Advisory Committee, up to 25% of the portfolio can be invested in securities that mature longer than ten years (ORC 135.35(O)).

- HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.
 - A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years.
- (Also see requirements for inactive deposits per Ohio Rev. Code 135.13 and CDARS and similar certificates of deposit per Ohio Rev. Code 135.144 at the end of this step.)
- Bonds or other obligations of the State of Ohio. [Ohio Rev. Code §135.14(B)(4)]
- No-load money market mutual funds consisting exclusively of obligations described in (B)(1) or (2) of Ohio Rev. Code §135.14 (i.e. the investments listed in the first two bullets above), and repurchase agreements secured by such obligations, provided the government purchases the money market mutual fund **only** through eligible institutions mentioned in Ohio Rev. Code §135.03 (which are, generally, Ohio banks and national banks authorized to do business in Ohio). [135.14(B)(5)] Also, per Ohio Rev. Code 135.01(O)(2), these funds must have the highest letter or numerical rating provided by at least one nationally recognized standard rating service.
- The Ohio Subdivisions Fund (STAR Ohio) as provided in Ohio Rev. Code §135.45. [Ohio Rev. Code §135.14(B)(6)]
- Chapter 133 securities (generally debt instruments Ohio State & local governments have issued) [Ohio Rev. Code §133.03].

➤ Per Ohio Rev. Code 135.14(E), the treasurer or governing board may also enter into a repurchase agreement with any **eligible institution** mentioned in Ohio Rev. Code §135.03 or any **eligible dealer** pursuant to Ohio Rev. Code §135.14(M). (**Eligible institutions** per Ohio Rev. Code 135.03 include any national bank, any bank doing business under authority granted by the superintendent of financial institutions, or any bank doing business under authority granted by the regulatory authority of another state of the United States, located in this state national banks, or Ohio savings banks but do not include credit unions.) ~~Effective 10/16/09, HB 1 amended R.C. 135.03 to permit any savings association or savings bank located in Ohio, which is doing business under the authority of another state, to become an eligible public depository.~~ **Eligible dealers** per Ohio Rev. Code 135.14(M) are national association of securities dealers members (NASD), banks, savings bank, or savings and loan associations regulated by the superintendent of financial institutions, or institutions regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.) In these agreements, the treasurer or governing board purchases, and such institution or dealer agrees unconditionally to repurchase any of the securities listed in division (B)(1) to (5) of §135.18,⁷ except letters of credit described in division (B)(2) are not permitted for repurchase agreements.

- The market value of securities subject to an overnight repurchase agreement must exceed the cash invested subject to the repurchase agreement by 2%.⁸ A term repurchase agreement may not exceed 30 days and must be marked to market daily.⁹

⁷ Ohio Rev. Code §135.18(B) (1) – (10) are summarized in Ohio Compliance Supplement Section 5-4.

⁸ Many states do not require minimum market values of securities for repurchase agreements. Therefore, the risk of noncompliance increases when banks merge with out-of-state banks. Ohio governments are still bound by Ohio

- All securities purchased pursuant to a repurchase agreement are to be delivered into the custody of the treasurer or governing board or an agent designated by the treasurer or governing board.¹⁰
- Repurchase agreements must be in writing. They must require that, for each transaction, the participating institution provide:
 - a) the par value of the securities;
 - b) the type, rate, and maturity date of the securities;
 - c) a numerical identifier (e.g., a CUSIP number) generally accepted in the industry that designates the securities.
- Agreements by which the treasurer or governing board agrees to sell securities owned by the subdivision to a purchaser and agrees with that purchaser to unconditionally repurchase those securities (i.e., Reverse Repos) are prohibited. [Ohio Rev. Code §135.14(E)]
- Derivative investments are prohibited. *Derivative*¹¹ means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States Treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative.
 - An eligible investment described in Ohio Rev. Code §135.14 with a variable interest rate payment or single interest payment, based upon a single index comprised of other eligible investments provided for in division (B)(1) or (2) of §135.14 (see above), is **not** a derivative, if the variable rate investment has a maximum maturity of 2 years. [Ohio Rev. Code §135.14(C)] (Therefore, an investment with a variable interest rate indexed to Federal securities would be legal. However, an investment indexed to the London Interbank Offered Rate (LIBOR) or to a bank's prime rate would not be legal.)
 - OAG Opinion 99-26 deemed collateralized mortgage obligations to be illegal derivatives.
 - A treasury inflation-protected security (TIPS) is permissible for counties only, per Ohio Rev. Code §135.35 (B).
- Article VIII, Sections 4 and 6 of the Ohio Constitution prohibit public bodies from becoming a “stockholder in any joint stock company, corporation or association.”

laws even if a bank's depository agreement indicates the bank follows another state's laws for the market value of securities.

⁹ The dealer would be responsible for marking the securities, not the government.

¹⁰ Counterparties (e.g. banks) accomplish this by maintaining a separate “customer” account at the Federal Reserve designated as a customer account. (For purposes of GASB 40, we currently believe securities held in a customer account would not be exposed to custodial risk.)

¹¹ Note: The Ohio Rev. Code still uses the derivative definition from GASB Technical bulletin 94-1. GASB Statement No. 53, effective for periods beginning after June 15, 2009, defines derivatives differently than does the Revised Code. So, for legal compliance purposes, governments must follow the Ohio Rev. Code derivative definition. For financial reporting, governments must follow the GASB definition. For example, interest rate swaps and energy futures contracts (which are allowable under RC 9.835 to mitigate price fluctuations, and are not intended as investments) meet the GASB 53 derivative definition, and would be subject to GASB Statement No. 53 derivative measurement and disclosure requirements, but are *not* illegal.

- However, Article VIII, Section 6 of the Constitution provides an exemption which allows public bodies to purchase insurance from mutual insurance companies (Note that insured parties of mutual insurance companies become stockholders.).
 - The AOS also does not believe Ohio Rev. Code Chapter 135 (or 1715.52(E)(3)) prohibits a government from **holding** stock **donated** to it. (However, considering the volatility of many equity securities, our management letter should recommend liquidating stock, if liquidation does not violate a trust or other agreement.)
- Per Ohio Rev. Code 135.14(F), a government cannot purchase an investment unless it reasonably expects to hold it until maturity. **NOTE:** We believe the intention of this section is to reduce the likelihood a government would suffer losses on early redemptions required due to inadequate cash flow planning. See the description of audit procedures for more information.
- Per Ohio Rev. Code 135.14(G), subdivisions may not invest interim moneys in an investment pool except:
- The Ohio Subdivision's Fund (STAR Ohio) pursuant to Ohio Rev. Code §135.14(B)(6).
 - A fund created solely to acquire, construct, own, lease, or operate municipal utilities pursuant to Ohio Rev. Code §715.02 or Ohio Const. Art XVIII, §4.
- Leveraging (a government using its current investment assets as collateral for purchasing other investments) is prohibited. [Ohio Rev. Code §135.14(H)]
- Issuing taxable notes for arbitrage is prohibited. [Ohio Rev. Code §135.14(H)]
- Governments cannot contract to sell securities not yet acquired (short sales), for the purpose of purchasing such securities on the speculation that their price will decline. [Ohio Rev. Code §135.14(H)]
- Payment for securities may be made only upon delivery of the securities to the treasurer, governing board, or qualified trustees, or, if not represented by a certificate, only upon receipt of confirmation of transfer from the custodian. [Ohio Rev. Code §135.14(M)(2)]
- Proceeds from refunding securities must be held in the debt service fund or in escrow, and shall be invested in direct obligations of or obligations guaranteed as to payment by the United States that mature or are subject to redemption by and at the option of the holder not later than the date or dates when the moneys, together with interest or other investment income accrued on those moneys, will be required to refund the debt. [Ohio Rev. Code §133.34(D)].
- Ohio Rev. Code §135.13 requires depositing *inactive* funds in certificates of deposit maturing not later than the end of the depository designation period or by savings or deposit accounts, including, but not limited to, passbook accounts.
- HB 225, effective 3/22/12, temporarily increases the maturity period from five years to ten years (ORC 135.35(C)).
 - HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.
 - A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years.
 - (Chapter 7 includes a test of depository designations.)

➤ Ohio Rev. Code §135.144 also permits governments to use the Certificate of Deposit Account Registry Services (CDARS) or similar programs meeting Ohio Rev. Code §135.144 requirements for interim deposits. If a government purchases CDs for more than the FDIC limit (*permanently* raised to \$250,000 on July 21, 2010) with a bank participating in CDARS, the bank “redeposits” the excess amounts with other institutions. Each bank accepts less than \$250,000 so that all deposits have FDIC coverage. Ohio Rev. Code §135.144 requires a government to place its deposits with an eligible depository per Ohio Rev. Code §135.03. However, the institutions the government’s depository places excess deposits with are not subject to Ohio Rev. Code §135.03. For example, they need not be located in Ohio. Because all CDARS deposits have FDIC coverage, the collateral requirements of Ohio Rev. Code §135.18 and §135.181 do not apply. (That is, these are *insured* deposits for GASB 40 purposes.) Refer to AOS Bulletin 2007-007 for additional information regarding CDARS.¹²

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures – Compliance (Substantive) Tests:

Select a representative number¹³ of investments and:

1. Read investment dealer confirmations* to determine if the investment is of a type authorized.

* Note: Dealer confirmations are suitable evidence supporting the details (e.g. valuation, occurrence) of an investment at the time of purchase. However, it provides no evidence the government still owned the investment as of its fiscal year end (the *existence* assertion). Auditors should obtain other evidence to support existence at year end. The audit program should include suitable existence steps.

¹² It is conceivable programs similar to CDARS may be established. We believe these programs would be legal if they meet all Ohio Rev. Code §135.44 requirements. For example, we are aware that credit unions have established a similar program to insure deposits exceeding the limits covered by the National Credit Union Share Insurance Fund. However, Ohio Rev. Code §135.44 would not permit governments to use this program because Ohio Rev. Code §135.03 (via Ohio Rev. Code §1151.01) excludes credit unions from eligible depositories. ~~Note: Effective 10/16/09, HB 1 amended~~ However, R.C. 135.03 ~~to~~ permits any savings association or savings bank located in Ohio, which is doing business under the authority of another state, to become an eligible public depository. Therefore, if they establish programs complying with all § 135.44 requirements, those programs would have similar legal status to the CDARS program.

¹³ When judging “a representative number,” consider focusing on investments held at year end, but also consider testing other purchases and sales during the audit period. In judging how many purchases to test, consider the volume of purchases, the control environment, the adequacy of policies, and the results of prior audits.

2. Determine that the investments mature within the prescribed limits (generally no later than 5 years, but 1 year¹⁴ for interim deposits in a certificate of deposit, or *other* periods for repurchase agreements, bankers' acceptances and commercial paper.)
3. Inspect documentation supporting repurchase agreements and determine that:
 - a. The market values of securities exceed the principal values of securities subject to the overnight repurchase agreement by 2%. (Note: The risk of non-compliance increases when banks merge.)
 - b. A term repurchase agreement did not exceed 30 days and the values of the securities were marked to market daily.
 - c. Repurchase agreements were in writing, including the par value of the securities; the type, rate, and maturity date of the securities; and a numerical identifier.
4. Read the prospectus for money market mutual funds with which the government has significant investment. Determine whether the prospectus limits investments to those authorized under Ohio Rev. Code §135.14(B)(1) & (B)(2). (B)(1) & (B)(2) describe Federally issued or insured securities. §(B)(1) & (B)(2) would not include, for example, reverse repos consisting of Federal securities or securities other states issue.
5. Determine whether money market mutual funds have the highest credit rating issued by one national ratings agency (such as that S&P, Moody's or Fitch issues).
6. Regarding Ohio Rev. Code §135.14(F), scan investment records to determine whether the government is selling securities prior to maturity. If a significant number or amount of premature sales occurred because the government had an emergency need for cash, review the CFO's cash flow forecasts supporting that the government had reasonable support, at the time of purchase, that it could hold the security to maturity. ***If there is inadequate cash flow planning***,¹⁵ cite this section. The noncompliance finding should also recommend the government improve its cash flow forecasting. The finding should also describe any losses the government suffered from these sales.
7. If the government hires an investment manager for all or a portion of its investments, obtain copies of investment summary reports the manager prepares.
 - a. Read the agreement between the manager and the government. Determine if the agreement (or the investment policy Step 5-2 describes) requires the manager to comply with all applicable Ohio Rev. Code Chapter 135 requirements. Maintain a copy or summary of the agreement in the permanent file.
 - b. Test selected investments from the reports for compliance with steps 1 – 5 above.
 - c. Scan purchases and sales to determine whether the manager sells securities prior to their maturity for other than an urgent need for cash.

¹⁵ "Emergency" premature sales can result in losses. If inadequate cash flow planning contributed to the need to sell early, we should cite them. In other circumstances, a government may choose to redeem a security early at a loss in order to re-invest at a greater overall rate of return. We would not deem this latter circumstance to violate the intent of Ohio Rev. Code §135.14(F).

d. (Note that for financial audit purposes, an investment manager may constitute a service organization under SSAE 16, SAS 70 & 92.¹⁶)

Note: The steps above should normally be sufficient for most governments. Because we believe the risk of governments engaging in certain prohibited activities such as leveraging, short sales or arbitrage violations is low, there are no steps included to test these requirements. You should scan the other requirements in this step, and based on your knowledge of the government's investing activities, investigate them if evidence suggests the government may have materially violated these requirements.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

¹⁶ Note that SSAE No. 16 replaces SAS 70 for *service organizations*, effective for periods ending on or after June 15, 2011. Earlier implementation is permitted. Also, a new standard will replace the user organization audit guidance in SAS 70 for audits of *user organizations* when the "Clarity" auditing standards become effective. In the meantime, SAS 70 remains effective for user organization auditors until which time the new Clarity standard is adopted.

5-2 Compliance Requirement: Ohio Rev. Code §135.14 – Other Requirements.

Summary of Requirements:

- Per Ohio Rev. Code §135.14(O)(1), Investments or deposits under §135.14 cannot be made unless a written investment policy approved by the treasurer or governing board is on file with the Auditor of State, with the following two exceptions:
 - Per Ohio Rev. Code §135.14(O)(2), If a written investment policy is not filed with the Auditor of State, the treasurer or governing board can invest only in interim deposits, STAR Ohio, or no-load money market mutual funds.
 - Per Ohio Rev. Code §135.14(O)(3), A subdivision whose average annual investment portfolio is \$100,000 or less need not file an investment policy, provided that the treasurer or governing board certifies to the Auditor of State that the treasurer or governing board will comply and is in compliance with the provisions of §135.01 to §135.21.
- Per Ohio Rev. Code §135.14(O)(1), The investment policy must be signed by:
 - All entities conducting investment business with the treasurer or governing board (except the Treasurer of State);
 - All brokers, dealers, and financial institutions, described in §135.14(M)(1), initiating transactions with the treasurer or governing board by giving advice or making investment recommendations;
 - All brokers, dealers, and financial institutions, described in §135.14(M)(1), executing transactions initiated by the treasurer or governing board.
- If any securities or certificates of deposit purchased are issuable to a designated payee or to the order of designated payee, the designated party is to be the treasurer and the treasurer’s office¹⁷.
- If the securities are registerable either as to principal and/or interest, then the securities are to be registered in the treasurer’s name.
- The treasurer is responsible for safekeeping all the documents evidencing a deposit or investment. Any securities may be deposited for safekeeping with a qualified trustee as provided in Ohio Rev. Code §135.18.
- Except for investments in securities described in Ohio Rev. Code §135.14(B)(5) and (6) (no-load money funds, certain repos and STAR Ohio) and for investments by a municipal corporation in the issues of that municipal corporation, all investments must be made through:
 - members of the National Association of Securities Dealers, Inc. (NASD); or
 - institutions regulated by the Superintendent of Banks, Superintendent of Savings and Loan Associations, Comptroller of Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
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¹⁷ For example, an acceptable method of complying with this requirement is for the financial institution to make the securities or certificates of deposit payable to “ABC Township, Joe Jones, Treasurer.”

<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
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Suggested Audit Procedures – Compliance (Substantive) Tests:

Read the government’s investment policy for the period.

If there is no written investment policy filed with the Auditor of State, scan the government’s investment portfolio for the period to determine that it is composed solely of interim deposits, STAR Ohio, or no-load money market mutual funds, or that its average annual size is \$100,000 or less. Additionally, inspect the certificate to the Auditor of State asserting¹⁸ that the treasurer or governing board will comply and is in compliance with the provisions of Ohio Rev. Code §135.01 to §135.21.

If applicable, inspect documentation that the policy was approved by the treasurer or governing board and is on file with the Auditor of State (For AOS employees the policies and exemptions are available at S:/Final Audit PDF/Region Folder/County Folder/Client Folder/Investment Policy Folder). (We need not repeat this step every audit. Keep a copy in the permanent file, and inquire whether the government has amended the policy since the prior audit.)

Inspect the policy for the requisite signatures:

- All entities conducting investment business with the treasurer or governing board (except the Treasurer of State);
- All brokers, dealers, and financial institutions initiating transactions with the treasurer or governing board by giving advice or making investment recommendations;
- All brokers, dealers, and financial institutions executing transactions initiated by the treasurer or governing board.
- Select a representative number of investments made by the entity and determine whether the investments are in accordance with the entity’s investment policy as adopted by the entity’s legislative body.

Determine if the policy requires financial institutions, brokers and dealers to comply with Ohio Rev. Code Chapter 135. (There is no legal requirement to include this, but if the policy does not include this requirement, we should recommend the government amend their policy to require compliance.)

¹⁸ Not required if the portfolio for the period is composed solely of interim deposits, STAR Ohio, or no-load money market mutual funds.

Select a representative number¹⁹ or amount of investments:

- Inspect purchase documents and determine that investments were made only through members of NASD, or institutions regulated by the Superintendent of Banks, Superintendent of Savings and Loan Associations, Comptroller of Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.
- For certificates of deposit, inspect documentation that any designated payee is the treasurer or treasurer’s office; and that the CDs are in the treasurer’s name.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

¹⁹ When judging “a representative number,” consider focusing on investments held at year end, but also consider testing other purchases and sales during the audit period. In judging how many purchases to test, consider the volume of purchases, the control environment, the adequacy of policies, and the results of prior audits.

5-3 Compliance Requirements: Ohio Rev. Code §135.142 (school districts), §135.14(B)(7) (other subdivisions) – Additional investments allowable for subdivisions other than counties.

Summary of Requirements: Ohio Compliance Supplement Section 5-1 identifies certain investments that are eligible for **interim** monies. In addition to those investments, subdivisions can invest interim monies as follows:

➤ Up to twenty-five per cent of interim moneys available for investment in either of the following [Ohio Rev. Code §135.142(A) for school districts; §135.14(B)(7) for other subdivisions]:

Commercial paper notes issued by an entity defined in Ohio Rev. Code §1705.01(D) (see definition below) and that has assets exceeding five hundred million dollars, to which all the following apply:

- The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.
- The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.
- The notes mature not later than one hundred eighty days after purchase.

Bankers’ acceptances of banks insured by the FDIC and to which both of the following apply:

- The obligations are eligible for purchase by the Federal Reserve System.
- The obligations mature not later than one hundred eighty days after purchase.

➤ Boards of education must authorize the treasurer to invest in commercial paper or bankers’ acceptances by a 2/3 majority vote. [Ohio Rev. Code §135.142(A)] (Once authorized, the authorization remains effective unless the policy changes. Therefore, we need not test this every audit. We should maintain documentation of the approval in the permanent file.)

➤ “Entity” means any of the following [Ohio Rev. Code §1705.01(D)]:

- A for profit corporation existing under the laws of this state or any other state;
- Any of the following organizations existing under the laws of this state, the United States, or any other state:
 - A business trust or association;
 - A real estate investment trust;
 - A common law trust;
 - An unincorporated business or for profit organization, including a general or limited partnership;
 - A limited liability company.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of an Effective Accounting System 		

<ul style="list-style-type: none"> • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
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Suggested Audit Procedures – Compliance (Substantive) Tests:

1. Inspect a representative number²⁰ of dealer confirmations of the commercial paper notes purchased and determine that the entity has maintained related documentation that the:
 - Commercial paper was rated in the highest classification by two standard rating services.
 - The commercial paper matures not later than 180 days after purchase.
2. Inspect dealer confirmations of the bankers’ acceptances purchased and determine that the entity has maintained related documentation that the:
 - Banks are insured by the Federal Deposit Insurance Corporation.
 - Dealer confirmations should indicate if bankers’ acceptances were **NOT** eligible for purchase by the Federal Reserve System. Read the confirmation to determine whether the banker’s acceptance was **ineligible**. (A statement of ineligibility would indicate an **ineligible** investment, per Ohio Rev. Code §135.142(A) for school districts or §135.14(B)(7) for other non-county entities.
 - The acceptances mature not later than 180 days after purchase.
3. For school districts, assure the permanent file documents the resolution authorizing the treasurer to invest in commercial paper and / or bankers’ acceptances.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

²⁰ When judging “a representative number,” consider focusing on investments held at year end, but also consider testing other purchases and sales during the audit period. In judging how many purchases to test, consider the volume of purchases, the control environment, the adequacy of policies, and the results of prior audits.

**Revised: Dodd-Frank Wall Street
Reform and Consumer
Protection Act of 2010
Section 343
Effective: December 31, 2010**

5-4 Compliance Requirements: Ohio Rev. Code §135.18 (specific collateral) and §135.181 (pooled collateral) – Security for repaying public deposits; Ohio Rev. Code §135.37 – Security for repaying county (and county hospital) public deposits; 12 CFR 330; 12 CFR 370 - TLGP.

Summary of Requirements: The treasurer of a political subdivision must require the depository to provide security equal to the funds on deposit at all times. Security may consist of federal deposit insurance, surety company bonds, or pledged securities. [Ohio Rev. Code §135.18].

Depository security requirements for county (and county hospital) monies parallel the requirements of other governmental entities pursuant to Ohio Rev. Code §135.18. Ohio Rev. Code §135.37(F) expressly permits counties to follow the pool collateral requirements of Ohio Rev. Code §135.181.

FDIC Insurance Coverage and Temporary Liquidity Guarantee Program

On July 21, 2010, President Barack Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 into law, which, in part, *permanently* raised the current standard maximum FDIC deposit insurance amount to \$250,000, retroactive to January 1, 2008. ~~(The standard maximum insurance amount of \$100,000 had been temporarily raised to \$250,000 until December 31, 2013.)~~

On November 9, 2010, the FDIC Board of Directors (the “Board”) issued a final rule (the “November Final Rule”) to implement Section 343 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“DFA”) that provides temporary unlimited deposit insurance coverage for noninterest-bearing transaction accounts at all FDIC-insured depository institutions (the “Dodd-Frank Provision”) (12 CFR 330).

All funds in a “noninterest-bearing transaction account” are insured in full by the Federal Deposit Insurance Corporation from December 31, 2010, through December 31, 2012. This temporary unlimited coverage is in addition to, and separate from, the coverage of at least \$250,000 available to depositors under the FDIC’s general deposit insurance rules (12CFR 330.16).

A “noninterest-bearing transaction account” means: (1) a deposit or account maintained at an insured depository institution; (i) in which interest is neither accrued nor paid; (ii) in which the depositor or account holder is permitted to make withdrawals, telephone or electronic or other media transfers, or other similar items for the purpose of making payments or transfers to third parties or others; (iii) on which the insured depository institution does not reserve the right to require advance notice of an intended withdrawal²¹. A noninterest-bearing transaction account also includes a trust account established by an attorney or law firm commonly known as an Interest on Lawyers Trust Accounts (“IOLTAs”) or its functional equivalent as determined by the corporation.²²

²¹ See 12 C.F.R. §330.1(r)

²² The definition of noninterest-bearing transaction account cannot include any interest bearing accounts, NOW accounts, or money market deposit accounts except as expressly provided in 12 C.F.R. §330.16(b) with respect to certain swept funds. The exception for swept funds is applicable only in situations where funds are swept from a noninterest-bearing transaction account to a noninterest-bearing savings account, notably a money market deposit account (MMDA). Pursuant to 12 C.F.R. § 330.16(b), such noninterest-bearing savings accounts into which funds

On October 14, 2008, the FDIC announced the Temporary Liquidity Guarantee Program (TLGP), which consists of two components [12 CFR 370.3(b)]:

- a temporary guarantee of newly issued senior unsecured debt ("debt guarantee program"), and
 - a temporary and unlimited guarantee of the coverage of funds in non-interest bearing transaction accounts at FDIC-insured institutions ("transaction account guarantee (TAG) program").
- Beginning December 31, 2010 through December 31, 2012, deposits held in noninterest-bearing transaction accounts will be fully insured, regardless of the amount in the account, at all FDIC-insured institutions. Noninterest-bearing checking accounts include Demand Deposit Accounts (DDAs) and any transaction account that has unlimited withdrawals and that cannot earn interest. Also included are IOLTA accounts (regardless of the interest rate) and NOW accounts that do not earn more than 0.25% interest. This unlimited protection is only available at insured depository institutions that continue to participate in the TAG Program after September 30, 2010.

The transaction account guarantee applies to all personal and business checking deposit accounts that do not earn interest at participating institutions. For example, if a customer has \$500,000 in a noninterest-bearing transaction deposit account, the FDIC would fully insure the entire \$500,000. (In issuing the November Final Rule, the Board confirmed it would not extend the Transaction Account Guarantee Program ("TAGP") beyond its sunset date of December 31, 2010.)

Debt Guarantee Program

The Debt Guarantee Program expired on 12/31/2010, however:

- For debt that is issued before April 1, 2009 by any participating entity, the guarantee expires on the earliest of the mandatory conversion date for mandatory convertible debt, the maturity date of the debt, or June 30, 2012.
- For debt that is issued on or after April 1, 2009, by a participating entity that is either an insured depository institution, a participating entity that has issued guaranteed debt before April 1, 2009, a participating entity that has been approved pursuant to § 370.3(h) to issue guaranteed debt after June 30, 2009, and on or before October 31, 2009, or a participating entity that has been approved pursuant to § 370.3(k) to issue guaranteed debt after October 31, 2009, the guarantee expires on the earliest of the mandatory conversion date (for mandatory convertible debt), the maturity date of the debt, or December 31, 2012.
- For debt that is issued on or after April 1, 2009 by a participating entity other than an entity described in paragraph (d)(2) of this section, the guarantee expires on the earliest of the mandatory conversion date for mandatory convertible debt, the maturity date of the debt, or on June 30, 2012.

Under the Debt Guarantee Program, the FDIC also guaranteed certain newly issued senior unsecured debt²³ issued by *participating institutions*. The Debt Guarantee Program This program was extended for

are swept would be considered noninterest-bearing transaction accounts. Apart from this exception for "reserve sweeps," MMDAs and noninterest-bearing savings accounts do not qualify as noninterest-bearing transaction accounts.

²³ Senior unsecured debt includes [12 CFR 370.2(e)(3); 12 CFR 370.2(a)(1)(i-iv)]:

- Federal funds purchased;
- Commercial paper;

senior unsecured debt issued after April 1, 2009 and before October 31, 2009 and maturing on or before December 31, 2012 unless an entity opted out of the debt guarantee component of the Temporary Liquidity Guarantee Program. In that event, the debt guarantee expired when the FDIC's received the opt-out decision.

Generally, and as defined in the interim rule, the following entities were eligible to ~~be participating institutions in the TLGP~~ participate in the Debt Guarantee Program:

- any FDIC-insured depository institution;
- any U.S. bank holding company, including financial holding companies; and
- certain U.S. savings and loan holding companies.

Eligible entities may have elected to opt out of the Debt Guarantee Program, ~~the transaction account guarantee program, or both~~. The FDIC maintains a list of those entities that have opted out of ~~either or both components of the TLGP~~ the Debt Guarantee Program on its Web site (<http://www.fdic.gov/regulations/resources/TLGP/optout.html> (<http://www.fdic.gov/regulations/resources/TLGP/index.html>). [12 CFR 370.5]

Depositories may pledge the following securities under the subsections of Ohio Rev. Code §135.18(B) listed below:

- (1) Bonds, notes, or other obligations of the United States; or bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the full faith of the United States is pledged for the payment of principal and interest thereon, by language appearing in the instrument specifically providing such guarantee or pledge and not merely by interpretation or otherwise;
- (2) Bonds, notes, debentures, letters of credit, or other obligations or securities issued by any federal government agency, or instrumentality, or the export-import bank of Washington; bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the full faith of the United States is pledged for the payment of principal and interest thereon, by interpretation or otherwise and not by language appearing in the instrument specifically providing such guarantee or pledge;
- (3) Obligations of or fully insured or fully guaranteed by the United States or any federal government agency or instrumentality;
- (4) Obligations partially insured or partially guaranteed by any federal agency or instrumentality;
- (5) Obligations of or fully guaranteed by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit Bank, or Student Loan Marketing Association;

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- Unsubordinated unsecured notes, including zero-coupon bonds;
 - U.S. dollar denominated certificates of deposit owed to an insured depository institution, an insured credit union as defined in the Federal Credit Union Act, or a foreign bank
 - U.S. dollar denominated deposits in an IBF of an insured depository institution owed to an insured depository institution or a foreign bank, and
 - U.S. dollar denominated deposits on the books and records of foreign branches of U.S. insured depository institutions that are owed to an insured depository institution or a foreign bank.

Although normally considered to be illegal investments for local governments, the securities above are believed to be *temporarily* legal investments because of the guarantee.

(6) Bonds and other obligations of this state and any county, municipal corporation, or other legally constituted taxing subdivision of another state, or an instrumentality of such public entities, if:

- The full faith and credit of the issue is pledged and,
- At the time of purchase, the security is rated in one of the two highest categories by at least one nationally recognized standard rating service

(7) Bonds and other obligations of any county, township, school district, municipal corporation, or other legally constituted taxing subdivision of this state, which is not at the time of such deposit, in default in the payment of principal or interest on any of its bonds or other obligations, for which the full faith and credit of the issuing subdivision is pledged.

(8) Bonds of other states of the United States which have not during the ten years immediately preceding the time of such deposit defaulted in payments of either interest or principal on any of their bonds;

(9) Shares of no-load money market mutual funds consisting exclusively of obligations described in division (B)(1) or (2) of Ohio Rev. Code §135.18 [these sections are (1) & (2), above] and repurchase agreements secured by such obligations.

(10) A surety bond issued by a corporate surety licensed by the state and authorized to issue surety bonds in this state pursuant to Ohio Rev. Code Chapter 3929 and qualified to provide surety bonds to the federal government pursuant to 96 Stat. 1047 (1982), 31 U.S.C.A. 9304.

By written notice to the treasurer, an institution designated as a public depository may designate a qualified trustee²⁴ and deposit the eligible securities required by this section with the trustee for safekeeping for the account of the treasurer (and the institution). In this case, the treasurer accepts the trustee's written receipt describing the securities which have been deposited with the trustee by the public depository. All such securities so deposited with the trustee are deemed to be pledged and deposited with the treasurer. [Ohio Rev. Code §135.18(D)].

Any federal reserve bank²⁵ or branch located in this state or Federal Home Loan Bank is qualified to act as trustee for the safekeeping of securities.

Any institution mentioned in Ohio Rev. Code §135.03 is qualified to act as trustee for the safekeeping of securities, other than those belonging to itself, under this section.

Ohio Rev. Code §135.181

In lieu of the specific pledging requirements of Section 135.18, a public depository at its option may pledge a single pool of eligible securities to secure the repayment of all its public deposits not otherwise secured, provided that at all times the total market value of the securities so pledged is at least equal to one hundred five per cent of its uninsured public deposits to be secured by the pooled securities.

²⁴ All securities eligible as collateral are book-entry only and held at the Federal Reserve. The Federal Reserve Bank acts as the government's agent and holds the collateral securities in the government's name. Deposits secured by collateral held in these accounts are not subject to custodial credit risk disclosures if the government can provide evidence that pledge accounts held in the government's name are in existence at the Federal Reserve.

²⁵ The Federal Reserve Bank of Cleveland sometimes uses the Boston Federal Reserve Bank for safekeeping. We do not deem this arrangement to violate this provision.

The securities described in division (B) of Ohio Rev. Code §135.18 (described above), shall be eligible as collateral, provided no such securities pledged as collateral are at any time in default as to either principal or interest.

A public depository must designate a qualified trustee (i.e., the Federal Reserve) and deposit the eligible pledged securities with that trustee for safekeeping. The depository must give written notice of the qualified trustee to any treasurer depositing public monies for which such securities are pledged. The treasurer shall accept the written receipt of the trustee describing the pool of securities so deposited by the depository. [Ohio Rev. Code §135.181(E)].

Upon request of a treasurer up to 4 times per year, a *public depository* must report: the amount of public monies deposited by the treasurer and secured and the total value based on the valuations described above, of the pool of securities pledged to secure public monies held by the depository, including those deposited by the treasurer [Ohio Rev. Code §135.181(L)].

Upon request of a treasurer up to 4 times per year, a *qualified trustee* must report the total value of the securities pool deposited with it by the depository and provide an itemized list of pooled securities. The trustee must make these reports as of the date the treasurer specifies.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures – Compliance (Substantive) Tests:

Compare depository balances to the amount of pledged securities and other depository collateral during the audit period, noting maximum amounts on deposit at any time. Calculate (or inspect, if available, the government’s calculations) if legal security equaled or exceeded depository balances. Focus audit procedures on the most recent fiscal year end, but based on your assessment of the control environment, the nature of collateral²⁶ and other risks also consider whether you should evaluate the adequacy of collateral as of other dates during the audit when deposit or investment balances may have been materially higher, such as immediately after the receipt of tax settlements.

Inspect the financial institution’s listing of pledged securities. Select a few securities and determine if the institution pledged only eligible securities. (When determining the extent of testing, auditors should consider that we do not require a high level of assurance, so a “few” items should be sufficient. Auditors can reduce or eliminate this testing based on the assessed level of control risk* and past experience with the financial institution. Therefore, if the government documents its review of collateral eligibility, or we have not noted eligibility problems in prior audits, we can reduce or eliminate this test.)

²⁶ For example, there is generally less risk that a financial institution using a collateral pool will have insufficient collateral vs. a financial institution pledging specific securities.

* “Control risk” in this context refers to the *government’s* controls, if any, over reviewing their financial institutions’ collateral lists. The AOS has no basis for assessing a financial institution’s control risk.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

Revised: HB 153, 129th GA
Effective: 9/29/11

5-5 Compliance Requirements: Article XII, Section 5a, Ohio Constitution; Ohio Rev. Code §135.21, §5705.10, §3315.01, and §5705.131; and 1982 Op. Atty Gen. No. 82-031 – Allocating interest among funds.

Summary of Requirements: The distribution of interest earned on monies held for the treasuries of other subdivisions (i.e. as fiscal agent or custodian) is generally subject to Ohio Rev. Code §135.21 and §5705.10, although specific exceptions may exist. As a general rule:

- Interest earned on monies deposited by a treasurer which do not belong in the treasury of the subdivision, due to their status as custodial funds,²⁷ because he is acting as ex officio treasurer, or otherwise, generally must be apportioned to the funds to which the principal belongs. [Ohio Rev. Code §135.21]
- All other interest earned must be credited to the general fund of the subdivision [Ohio Rev. Code §135.21], with the **following exceptions:**
 - Interest earned on money derived from a motor vehicle license or fuel tax must follow the principal²⁸. [Article XII, Section 5a, Ohio Const. and 1982 Op. Atty Gen. No. 82-031]
 - Federal regulations may require local governments to credit interest earned on federal money to the fund to which the principal belongs. Most Federal agencies have codified *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* that describe the accounting for interest earnings. In some situations, interest earnings on Federal money must follow the fund to which the principal belongs (such as interest earned on revolving loans). Conversely, local governments must generally refund interest earned in excess of \$100 annually to the Federal agency if the grant is advance funded. Auditors should refer to the applicable Federal program regulations and grant agreements to determine whether interest earned on federal money is program income and, therefore, must be credited to the fund where the principal belongs.
 - Interest earned on principal of a non-expendable trust fund²⁹ established to receive donations or contributions that the donor or contributor requires to be maintained intact must be credited to the non-expendable trust fund to which the principal belongs. [Ohio Rev. Code §5705.131].

²⁷ Op. Atty. Gen. No. 85-085 defines *Custodial Funds* as those funds held in possession of the treasurer of a government body for some other entity, but are considered to be outside the treasury of the governmental body – and not available for use by that governmental body itself. This would include funds properly classified as fiduciary funds per GASB Cod. 1300.102(c).

²⁸ This includes local motor vehicle license tax imposed under Ohio Rev. Code Chapter 4504, motor vehicle license tax imposed under Ohio Rev. Code 4503.02, highway use tax, and gasoline tax imposed under Ohio Rev. Code Chapter 5728, and the motor vehicle fuel tax imposed under Ohio Rev. Code Chapter 5735. [Op. Atty. Gen. No. 1982-031]

²⁹ For accounting purposes, funds this Ohio Rev. Code section describes would now be *permanent funds under GASB 54* or *private purpose trust funds* under GASB 34.

- Interest earned on debt proceeds from debt issued under Ohio Rev. Code Chapter 133 must be used for purposes for which the debt was issued or credited to the general fund. [Section 5705.10(E)] (Note: *Proceeds* exclude accrued interest and premiums, which the entity must credit to the sinking or bond retirement fund.)

School District Exceptions:

- The board of education of any school district may adopt a resolution requiring the treasurer of the district to credit the earnings made on the investment of the principal of the moneys specified in the resolution to the fund from which the earnings arose, or any other fund of the district as the board specifies in its resolution. [Ohio Rev. Code §3315.01(A)].

This procedure does not apply to the earnings made on the investment of a school district’s bond retirement fund, the sinking fund, a project construction fund established pursuant to Ohio Revised Code §3318.01 to §3318.20 (see school Classroom Facilities Assistance Program requirements in OCS Chapter 2), or the payments districts receive from the school foundation program. [Ohio Rev. Code §3315.01(B)].

- All investment earnings of a school district project construction fund shall be credited to the fund. After the a certificate of completion has been issued for a project under section 3318.48 of the Revised Code, has been completed:

(A). Any investment earnings remaining in the project construction fund attributable to the school district’s contribution to the fund shall be transferred to the district’s maintenance fund required by division (B) of Ohio Rev. Code §3318.05, and the money shall be used solely for maintaining the classroom facilities included in the project. [Ohio Rev. Code §3318.12(C)(1)]

(B). Any investment earnings remaining in the project construction fund that are attributable to the state’s contribution to the fund shall be transferred to the state commission for expenditure pursuant to Ohio Rev. Code 3318.01 to 3318.20. [Ohio Rev. Code §3318.12(C)(2)]

- All revenue, as defined in 7 CFR 210.2, received by or accruing to the food service fund of any school district or community schools including but not limited to, children’s payments, earnings on investments, and other local revenues should be credited to and used by those funds. (7 CFR 210.2 and 210.14 (a)).

Cemetery Exception:

Interest earned on a cemetery bequest fund that is attributable to an individual bequest is credited to that fund. That is, interest attributable to an endowment for the benefit of individual cemetery lots should follow the principal of the endowment (i.e., typically classified as a Permanent Fund under GASB 54 34) [Ohio Rev. Code §759.36, §759.14, and §517.15]. However, interest attributable to endowments generally benefitting the cemetery as whole may be allocated to a cemetery fund (i.e., typically classified as a Special Revenue Fund under GASB 54.34) to be used for general cemetery purposes.

Library Exception:

- The board of library trustees of any free public library district may adopt a resolution requiring the treasurer of the district to credit the earnings made on the investment of the principal of the moneys specified in the resolution to the fund from which the earnings arose or any other fund of the district as the board specifies in its resolution. [Ohio Rev. Code §3375.391]

- This does not apply to the earnings made on the investment of any library bond retirement fund or any sinking fund. [Ohio Rev. Code §3375.391]

In determining how the government ensures	What control procedures address the	W/P
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compliance, consider the following:	compliance requirement?	Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures – Compliance (Substantive) Tests:

Trace a representative selection of interest earned during the fiscal year and determine that it was paid into the proper funds.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

Section B: County and County Hospital Requirements

The provisions of Ohio Rev. Code Chapter 135 relating to counties (and county hospitals) are in separate sections from the provisions relating to all other subdivisions. However, in most cases the requirements are very similar.

5-4 Compliance Requirements: Section 5-4 presented under Section A applies to counties and hospitals.

5-6 Compliance Requirement: Ohio Rev. Code §135.34 and §135.341 – Investment advisory committee; county commissioners’ review of investment policies.

Summary of Requirements:

Ohio Rev. Code §135.341(A) establishes in each county a county investment advisory committee of 3 members:

- 2 county commissioners; and
- the county treasurer

The board of county commissioners *may* declare that all 3 county commissioners shall serve on the county investment advisory committee. If the board so declares, the county investment advisory committee consists of 5 members:

- the 3 county commissioners;
- the county treasurer; and
- the clerk of court of common pleas of the county

The committee elects its own chair, and committee members receive no additional compensation. [Ohio Rev. Code §135.341(B)]

The committee must meet at least once every 3 months to review or revise its policies and to advise the investing authority (generally the county treasurer) on county investments, with the objective of ensuring the best and safest return of funds to the county. Any member of the committee, upon giving 5 days’ notice, may call a committee meeting. The committee’s policies may establish a limit on the period of time that moneys may be invested in any particular type of investment. [Ohio Rev. Code §135.341(C)]

The committee is authorized to retain the services of an investment advisor, provided that the advisor is registered with the Securities and Exchange Commission and possesses public funds investment management experience, specifically in the area of state and local government investment portfolios, or the advisor is an eligible institution mentioned in Ohio Rev. Code §135.03. [Ohio Rev. Code §135.341(D)]

The committee shall act as the investing authority in place of the treasurer for purposes of investing county funds and managing the county portfolio when this authority is transferred to it pursuant to divisions (E)(1) and (F)(2) of Ohio Rev. Code §321.46 or when ordered to do so by a court pursuant to §321.47. For these purposes, the committee shall retain the services of an investment advisor described in division (D) of this section. [Ohio Rev. Code §135.341(E)]

The board of county commissioners may semiannually review investment procedures of the investing authority. Whenever such reviews indicate that the investing authority has failed to invest inactive monies of the county as provided by law or in “documented substantial, material, and continuing” disregard of the advice or policies of the investment advisory committee, the board notifies the investing authority of its findings. If at the next review it determines that such procedures have not been corrected,

the board may designate, by resolution, a different investing authority. This may include the board of county commissioners, one of its members, or one of its employees. Thereafter, until rescinded by resolution of the board, the investing authority is as designated by the board. [Ohio Rev. Code §135.34]

All or part of the moneys determined not to be necessary to meet current county hospital demands may be invested by the hospital trustees in any classifications of securities eligible for deposit or investment of county moneys pursuant to Ohio Rev. Code §135.35, subject to the approval of the board's written investment policy by the county investment advisory committee established pursuant to Ohio Rev. Code §135.341. [Ohio Rev. Code §339.06(D)(2)]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures – Compliance (Substantive) Tests:

Read minutes and records of the county investment advisory committee and determine that the committee is meeting at least quarterly and has established written county investment policies.

Obtain a copy of the written investment policies established by the committee. Examine a representative selection of investment transactions to determine whether the investing authority is complying with the committee’s policies.

Inquire (or read minutes) as to the results of any quarterly reviews of the county investment procedures by the board of county commissioners and determine whether appropriate action was taken by the board.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

Revised: HB 225, 129th GA

Effective: 3/22/12

HB 487, 129th GA

Effective: 9/10/12

5-7 (a) Compliance Requirements: Ohio Rev. Code §135.35 and 12 CFR 370 - Eligible Investments for inactive county money (county hospitals may invest in these same securities, per Ohio Rev. Code §339.06).

Summary of Requirements:

- Investments must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.
- HB 225, effective 3/22/12, temporarily increases this to ten years (ORC 135.35(C)). Additionally, after an affirmative vote of the County's investment Advisory Committee, up to 25% of the portfolio can be invested in securities that mature longer than ten years (ORC 135.35(O)).
 - HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.
 - A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years.
- The following classifications of securities and obligations are eligible for deposit or investment:
 - United States obligations or any other obligation guaranteed as to principal or interest by the United States, or any book entry, zero-coupon United States treasury security that is a direct obligation of the United States. [Ohio Rev. Code §135.35(A)(1)]
 - Stripped principal or interest obligations are not permitted. Except, Federally-issued or Federally-guaranteed stripped principal or interest obligations are permitted. [Ohio Rev. Code §135.35(A)(1)]
 - Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality. All federal agency securities must be direct issuances of federal government agencies or instrumentalities. [Ohio Rev. Code §135.35(A)(2)]
 - Time certificates of deposit³⁰ or savings or deposit accounts, including passbook accounts, in any eligible³¹ institution mentioned in Section 135.32. [Ohio Rev. Code §135.35(A)(3)]

³⁰ It is the position of the Auditor of State that Ohio Rev. Code §135.03 & §135.32 prohibit purchasing certificates of deposit (negotiable or otherwise) from a bank unless the CD is subject to inspection by the Ohio Superintendent of Financial Institutions. Ohio is part of a nationwide cooperative agreement for examining multi-state banks in which these states agreed to recognize each other's supervisory authority for banks headquartered in another state but doing business in theirs. Therefore, it is reasonable to conclude that a multi-state bank in a state subject to this agreement is subject to inspection by Ohio's Superintendent of Financial Institutions. Multi-state banks are eligible to become a public depository for Ohio's governmental entities, subject to sections 135.01 to 135.21 of the Ohio Rev. Code. The bank should be registered with the Ohio Secretary of State to be an eligible public depository in Ohio. A government cannot purchase negotiable or nonnegotiable CDs unless the governing body has designated

- Ohio Rev. Code §135.353 also permits counties to use the Certificate of Deposit Account Registry Services (CDARS) or similar programs meeting Ohio Rev. Code §135.353 requirements. If a county purchases CDs for more than the FDIC limit (*permanently* raised to \$250,000 on July 21, 2010. See *OCS step 5-4* with a bank participating in CDARS, the bank “redeposits” the excess amounts with other institutions. Each bank accepts less than \$250,000 so that all deposits have FDIC coverage. Ohio Rev. Code §135.353 requires a county to place its deposits with an eligible depository per Ohio Rev. Code §135.32. However, institutions the county’s depository places excess deposits with are not subject to Ohio Rev. Code §135.32. For example, they need not be located in Ohio. Because all CDARS deposits have FDIC coverage, the collateral requirements of Ohio Rev. Code §135.18 and §135.181 do not apply. (That is, these are *insured* deposits for GASB 40 purposes.)
- Bonds and other obligations of this state or the political subdivisions of this state provided that such political subdivisions are located wholly or partly within the same county as the investing authority. [Ohio Rev. Code §135.35(A)(4)]
- HB 225, effective 3/22/12 allows the purchase of municipal debt of the State of Ohio or any political subdivision of the State (it removes the restriction that the subdivision lie within the County).
- No-load money market mutual funds consisting exclusively of obligations described in Ohio Rev. Code §135.35(A)(1) or (2) (see above), or repurchase agreements secured by such obligations, if purchased from eligible institutions mentioned in Ohio Rev. Code §135.32 (generally, Ohio banks and national banks authorized to do business in **Ohio**). [Ohio Rev. Code §135.35(A)(5)]*
- No-load money market mutual funds if rated in the highest category at the time of purchase by at least one nationally recognized standard rating service and invested exclusively in:
 - United States treasury bills, notes, bonds, or any other obligations or securities issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States, Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality or corporate commercial paper rated in the highest category by two ratings agencies (i.e. securities Ohio Rev. Code §135.143(A)(1), (2) or (6) permits);
 - Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality; Commercial paper issued by any corporation incorporated under the laws of the United States or a state, which notes are rated at the time of purchase in the two highest categories by two nationally recognized rating agencies [Ohio Rev. Code §135.35(A)(10)]*

* Note: Ohio Rev. Code §135.35(A)(5) and (A)(10) are similar. Ohio Rev. Code § (A)(5) permits buying money market mutual funds which invest in repurchase agreements, but does not authorize commercial paper, and requires purchasing the fund through a bank. Ohio Rev. Code § (A)(10) permits buying money market mutual funds which invest in commercial paper but does not authorize repurchase agreements. Ohio Rev. Code § (A)(10) also permits purchasing a mutual fund though a bank or through a broker dealer. A county can follow either or both sections.

the bank as eligible to hold interim or inactive deposits. See ADAM 2002-05. (Ohio Rev. Code §135.144 provides an exception to this general rule regarding out-of-state CDs. See description of 135.144 requirements in this step.)

³¹ ~~Effective 10/16/09, HB 1 amended R.C. 135.03 to permit any savings association or savings bank located in Ohio doing business under the authority of another state, to become an eligible public depository.~~

- The Ohio Subdivision’s Fund (STAR Ohio) as provided in Ohio Rev. Code §135.45. [Ohio Rev. Code §135.35(A)(6)]
- Securities lending agreements with any eligible institution mentioned in Ohio Rev. Code §135.32 that is a member of the Federal Reserve System or Federal Home Loan Bank, or with any recognized U.S. government securities dealer,³² under the terms of which agreements in the investing authority lends securities and the eligible institution agrees to simultaneously exchange similar securities described in Section 135.35(A)(1) or (2) or cash or both securities and cash, equal value for equal value. [Ohio Rev. Code §135.35(A)(7)]
- Up to twenty-five per cent of the county’s total portfolio in either of the following [Ohio Rev. Code §135.35(A)(8)]:

Commercial paper issued by an “entity” that is defined in division (D) of Ohio Rev. Code §1705.01 (see definition below) and that has assets exceeding five hundred million dollars, to which notes all of the following apply:

- The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.
- The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.
- The notes mature not later than 270 days after purchase.

Bankers’ acceptances of banks that are insured by the federal deposit insurance corporation and to which both of the following apply:

- The obligations are eligible for purchase by the Federal Reserve System.
- The obligations mature not later than one hundred eighty days after purchase.

No investment shall be made in commercial paper or bankers’ acceptances unless the treasurer or governing board has completed additional training for making those investments. The type and amount of additional training shall be approved by the auditor of state and may be conducted by or provided under the supervision of the auditor of state.

“Entity” means any of the following [Ohio Rev. Code §1705.01(D)]:

1. A for profit corporation existing under the laws of this state or any other state;
2. Any of the following organizations existing under the laws of this state, the United States, or any other state:
 - i. A business trust or association;
 - ii. A real estate investment trust;
 - iii. A common law trust;
 - iv. An unincorporated business or for profit organization, including a general or limited partnership;
 - v. A limited liability company.

³² Ohio Rev. Code §135.35(J)(I) defines these security dealers as being “members of the national association of securities dealers (NASD), through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation (FDIC), or board of governors of the federal reserve system.”

- Per Ohio Rev. Code §135.35(A)(9), up to fifteen per cent of the county's total average portfolio in notes issued by corporations incorporated under U.S. law and that operate within the United States, or by depository institutions doing business under U.S. authority or any state's authority, and that operate within the United States, provided both of the following apply:
 - The notes are rated in one of the two highest categories by at least two nationally recognized standard rating services at the time of purchase;
 - The notes mature not later than two years after purchase.

- Per Ohio Rev. Code §135.35(A)(11) up to 1% of its portfolio in the debt of foreign nations, if:
 - Rated at the time of purchase in the three highest categories by two nationally recognized standard rating services
 - The U.S. government recognizes it diplomatically.³³
 - All interest and principal shall be denominated and payable in United States funds.
 - The foreign government guarantees the debt.
 - The debt matures within five years of purchase. HB 225, effective 3/22/12, temporarily increases this to ten years (ORC 135.35(C)). Additionally, after an affirmative vote of the County's investment Advisory Committee, up to 25% of the portfolio can be invested in securities that mature longer than ten years (ORC 135.35(O)).
 - HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.
 - A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years.

- The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in Ohio Rev. Code §135.32 or any eligible dealer pursuant to Ohio Rev. Code §135.35(J), under the terms of which agreement the investing authority purchases, and the eligible institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (B)(1) to (5) of §135.18, except letters of credit described in division (B)(2) are not permitted for repurchase agreements.³⁴ The market value of securities subject to an overnight repurchase agreement must exceed the principal value of securities subject to a repurchase agreement by 2%.⁸ A written repurchase agreement shall not exceed 30 days and the value of the securities must exceed the principal value by at least 2% and be marked to market daily. [Ohio Rev. Code §135.35(D)]
 - All securities purchased pursuant to a repurchase agreement are to be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority³⁵. [Ohio Rev. Code §135.35(D)]
 - Repurchase agreements with an eligible securities dealer must be transacted on a delivery versus payment basis.

³³ As best as we can determine, the United States does not recognize the following nations: Cuba, Bhutan, Iran, North Korea, Sudan, Somalia, and the Republic of China (Taiwan).

³⁴ Ohio Compliance Supplement Step 5-4 summarizes Ohio Rev. Code §135.18(B)(1) to (10).

³⁵ Counterparties (e.g. banks) accomplish this by maintaining a separate "customer" account at the Federal Reserve designated as a customer account. (For purposes of GASB 40, we currently believe securities held in a customer account would not be exposed to custodial risk.)

- Repurchase agreements must be in writing. For each transaction, the participating institution must provide:
 1. the par value of the securities;
 2. the type, rate, and maturity date of the securities;
 3. a numerical identifier (e.g., a CUSIP number), generally accepted in the industry, designating the securities.
- Securities which are the subject of a repurchase agreement may be delivered to the treasurer or held in trust by the participating institution if it is a designated depository of the subdivision for the current period of designation. [Ohio Rev. Code §135.35(I)].
- Agreements by which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities (*Reverse Repos*) are prohibited.
- Investment in derivatives is prohibited. A *derivative*³⁶ is a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States Treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative.
- An eligible investment described in Ohio Rev. Code §135.14 with a variable interest rate payment or single interest payment, based upon a single index comprised of other eligible investments provided for in division (A)(1) or (2) of Section 135.35, is **not** a derivative, if the variable rate investment has a maximum maturity of 2 years. [Ohio Rev. Code §135.14(C)]
- OAG Opinion 99-26 deemed collateralized mortgage obligations to be derivatives.
- A treasury inflation-protected security (TIPS) shall not be considered a derivative for counties, provided the security matures not later than five years after purchase (Ohio Rev. Code §135.35(B)). HB 225, effective 3/22/12, temporarily increases this to ten years (ORC 135.35(C)). Additionally, after an affirmative vote of the County's investment Advisory Committee, up to 25% of the portfolio can be invested in securities that mature longer than ten years (ORC 135.35(O)).
 - HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.
 - A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years.
- Per Ohio Rev. Code §135.35(E): No investing authority can invest under §135.35, unless the investment authority reasonably expects that the investment can be held until its maturity. The investing

³⁶ Note: The Ohio Rev. Code still uses the definition of a derivative taken from GASB Technical Bulletin 94-1. GASB Statement No. 53, effective for periods beginning after June 15, 2009, includes swaps as derivatives. So, for legal compliance purposes, governments must follow the Ohio Rev. Code definition. For financial reporting governments must follow the GASB definition. For example, an interest rate swap and energy futures contracts (which are allowable under RC 9.835 to mitigate price fluctuations, and are not intended as investments) would be subject to GASB Statement No. 53 derivative measurement and disclosure requirements, but is **not** illegal.

authority’s written investment policy should specify the conditions under which an investment may be redeemed or sold prior to maturity.

➤ Per Ohio Rev. Code §135.35(F), no investing authority may pay a county’s inactive moneys, or moneys of a county library and local government support fund (also known as: “county public library funds” pursuant to SB 185, 127th General Assembly, effective 6/20/2008), into an investment pool *other than*:

- the Ohio Subdivision’s Fund (STAR Ohio) pursuant to Ohio Rev. Code §135.35(A)(6)
- a fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to Ohio Rev. Code §715.02 or Ohio Const. Art XVIII, Section 4.

➤ A county may not leverage its investments. (That is, a county cannot use its current investments as collateral to purchase other investments.) [Ohio Rev. Code §135.35(G)]

➤ A county cannot issue taxable notes for arbitrage purposes. [Ohio Rev. Code §135.35(G)] (That is, a county cannot invest the proceeds of taxable notes hoping to earn a higher return on the proceeds than the interest rate on the TAN.)

➤ A county cannot contract to sell securities it does not own. (These are called short sales, where a county purchases the rights to a security solely on the speculation that its price will decline.) [Ohio Rev. Code §135.35(G)]

➤ Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, investing authority, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee. [Ohio Rev. Code §135.35(J)(2)]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures – Compliance (Substantive) Tests:

Select a representative number³⁷ of investments and:

³⁷ When judging “a representative number,” consider focusing on investments held at year end, but also consider testing other purchases and sales during the audit period. In judging how many purchases to test, consider the volume of purchases, the control environment, the adequacy of policies, and the results of prior audits.

1. Read investment dealer confirmations* to determine if the investment is of a type authorized.

* Note: Dealer confirmations are suitable evidence supporting the details (e.g. part of the valuation [cost] and occurrence assertions) of an investment at the time of purchase. However, it provides no evidence the county still owned the investment as of its fiscal year end. Auditors should obtain other evidence to support existence at year end. The audit program should include suitable existence steps.

2. Determine that the investments mature within the prescribed limits (generally no later than 5 years, or **other** periods for repurchase agreements [30 days], bankers' acceptances and commercial paper [180 or 270 days, respectively, from the purchase date], or securities matched to debt maturities, etc.)
3. Inspect documentation supporting repurchase agreements and determine that:
 - a. The market values of securities exceed the principal values of securities subject to the overnight repurchase agreement by 2%. (Note: The risk of non-compliance increases when banks merge.)
 - b. A term repurchase agreement did not exceed 30 days and the values of the securities were marked to market daily.
 - c. Repurchase agreements were in writing, including the par value of the securities; the type, rate, and maturity date of the securities; and a numerical identifier.
4. For investments in Bankers' Acceptances and Commercial Paper Notes, inspect documentation and determine whether the additional training was received.
5. Read the prospectus for money market mutual funds with which the government has significant investments. Determine whether the prospectus limits investments to those authorized under Ohio Rev. Code §135.35(A)(1) & (A)(2) or 135.143(A)(1), (2) or (6).
6. Determine whether mutual funds, commercial paper, and any notes of U.S. corporations have the necessary credit rating issued by national ratings agencies (such as that S&P, Moody's or Fitch issues).
7. Inspect dealer confirmations of the bankers' acceptances purchased and determine that the county has maintained related documentation that the:
 - a. Banks are insured by the Federal Deposit Insurance Corporation
 - b. Dealer confirmations should indicate if banker's acceptances were **NOT** eligible for purchase by the Federal Reserve System. Read the confirmation to determine whether the banker's acceptance was **ineligible**. (A statement of ineligibility would indicate an **ineligible** investment, per Ohio Rev. Code §135.35(A)(8)(b)(i).
8. Scan the county's computation of the composition of its investments. Determine if the portfolio contains ≤:
 - a. 1% foreign national securities
 - b. 15% debt of U.S. corporations
 - c. 25% commercial paper + bankers' acceptances

9. Scan investment records to determine whether the county is selling securities prior to maturity. If a significant number or amount of premature sales occurred:

- a. Determine whether the premature sales complied with the county’s policy regarding early redemption. (We believe the policy should generally require sufficient cash flow planning to support that the county had sufficient cash at the time of purchase so that a premature sale would not be needed to meet emergency cash flow needs. Forced premature sales often result in losses.)
- b. Review the county’s cash flow forecasts supporting that the county had reasonable support at the time of purchase that it could hold the security to maturity. If there is inadequate cash flow planning necessitating premature sales, cite this section and recommend the government improve its cash flow forecasting. The finding should also describe any losses the government suffered from these sales.

Note: The steps above should normally be sufficient for most counties. Because we believe the risk of counties engaging in certain prohibited activities such as leveraging, short sales or arbitrage violations is low, there are no steps included to test these requirements. You should scan the other requirements in this step, and based on your knowledge of the county’s investing activities, investigate them if evidence suggests the county may have materially violated these requirements.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

**Revised: HB 209 and HB
225, 129th GA
Effective: 3/22/12**

5-7 (b) Compliance Requirements: Ohio Rev. Code §135.35 – Other County and County Hospital [Ohio Rev. Code §339.06] Requirements.

Summary of Requirements:

- Investments or deposits under Ohio Rev. Code §135.35 cannot be made unless a written investment policy approved by the investing authority (for hospitals, the authority is the county hospital board, per Ohio Rev. Code §339.06) is on file with the Auditor of State. If a written investment policy is not filed with the Auditor of State, the investing authority may invest only in certificates of deposit, savings or deposit accounts, STAR Ohio, or no-load money market mutual funds. [Ohio Rev. Code §135.35(K)(1)&(2)]
- The investment policy must be signed by:
 - All entities conducting investment business with the investing authority (except the Treasurer of State);
 - All brokers, dealers, and financial institutions, described in Ohio Rev. Code §135.35(J)(1), initiating transactions with the investment authority by giving advice or making investment recommendations;
 - All brokers, dealers, and financial institutions, described in Section 135.35(J)(1), executing transactions initiated by the investing authority.
- An investment made by the investing authority pursuant to Ohio Rev. Code §135.35 prior to September 27, 1996 that was a legal investment under the law before September 27, 1996 may be held until maturity. If the investment does not have a maturity date, it may be held until September 27, 2001, regardless of whether the investment would qualify as a legal investment under the terms of Ohio Rev. Code §135.35 as amended. [Ohio Rev. Code §135.35(N)]
- The investing authority is required to inventory all obligations and securities. The inventory includes a description of each obligation or security, including type, cost, par value, maturity date, settlement, date, and any coupon rate. [Ohio Rev. Code §135.35(L)(1)]
- The investing authority is required to keep a complete record of all purchases and sales of the obligations and securities. [Ohio Rev. Code §135.35(L)(2)]
- The investing authority is required to keep a monthly portfolio report and issue a copy of the monthly report describing its investments to the county investment advisory committee. This report indicates:
 - the current inventory of all obligations and securities,
 - all transactions during the month that affected the inventory,
 - any income received from the obligations and securities, and
 - any investment expenses paid.
 - The names of any persons executing transactions on behalf of the investing authority.

➤ The inventory and the monthly portfolio report are public records and must be filed with the board of county commissioners. [Ohio Rev. Code §135.35(L)(5)]

HB 225, effective 3/22/12 requires the monthly portfolio to be filed with the Treasurer of the State of Ohio. [ORC 135.35(L)(5)]. It is our understanding that the state treasurer postponed until after a meeting with county treasurers. Therefore, the first report may not be due until June or later.

➤ Any securities, certificates of deposit, deposit accounts, or any other documents evidencing deposits or investments must be issued in the name of the county with the county treasurer or investing authority as the designated payee. [Ohio Rev. Code §135.35(H)].

➤ If any such deposits or investments are registerable as to principal and/or interest, they must be registered in the name of the treasurer. [Ohio Rev. Code §135.35(H)].

➤ The investing authority is responsible for safekeeping documents evidencing a deposit or investment. Securities and documents confirming the purchase of securities under any repurchase agreement may be deposited with a qualified trustee. [Ohio Rev. Code §135.35(I)].

➤ Where securities, including securities which are the subject of a repurchase agreement, have been delivered to a qualified trustee for safekeeping, the qualified trustee must report on request to the treasurer, governing board, Auditor of State, or authorized IPA as to the identity, market value, and location of the document evidencing each security.

➤ All investments in securities except investments described in division (A) (5) and (6) [no load money market mutual funds and certain repos] are required to be made through

- members of the National Association of Securities Dealers, Inc., or
- institutions regulated by the Superintendent of Banks, Superintendent of Savings and Loan Associations, Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System. [Ohio Rev. Code §135.35(J)(1)].

➤ Payment for securities may be made only upon delivery of the securities to the treasurer, investing authority, or qualified trustee, or, if in book-entry form, only upon confirmation of delivery to such parties. [Ohio Rev. Code §135.35 (J)(2)]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures – Compliance (Substantive) Tests:

Read the county's investment policy for the period. (Investment policies have been scanned and are posted on S:\Final Audit PDF. Click on the Region/County/Entity name.)

Inspect documentation that it was filed with the Auditor of State (if posted in the above directory, the policy was filed with AOS).

Inspect the policy for the requisite signatures:

- All entities conducting investment business with the county (except the Treasurer of State);
- All brokers, dealers, and financial institutions initiating transactions with the county by giving advice or making investment recommendations;
- All brokers, dealers, and financial institutions executing transactions initiated by the county.
- Select a representative number of investments made by the entity and determine whether the investments are in accordance with the county's investment policy as adopted by the county's legislative body.

Determine if the policy requires financial institutions, brokers and dealers to comply with Ohio Rev. Code Chapter 135. (There is no legal requirement to include this, but if the policy does not include this requirement, we should recommend the government amend their policy to require compliance.)

If there is no written investment policy filed with the Auditor of State, scan the county's investment portfolio for the period to determine that it is composed solely of certificates of deposit, savings or deposit accounts, STAR Ohio, or no-load money market mutual funds.

Select a representative number³⁸ or amount of investments and:

- Inspect documentation that any designated payee is the treasurer or treasurer's office; and that registerable securities are registered in the treasurer's name.
- Inspect purchase documents and determine that investments were made through appropriate parties: members of the National Association of Securities Dealers, Inc., or institutions regulated by the Superintendent of Banks, Superintendent of Savings and Loan Associations, Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System. Compare purchase dates and payments and determine that payment for securities was made upon delivery of the securities or upon receipt of confirmation of transfer from the custodian.
- Inspect copies of the investing authority's (i.e. treasurer's) inventory documents: scan the documents and determine if it appears the inventory includes a description of each obligation or security, including type, cost, par value, maturity date, settlement, date, and any coupon rate; the inventory reflects a complete record of all purchases and sales of the obligations and securities; and that the county is keeping a monthly portfolio report and is issuing a quarterly investment report describing its investments to the county investment advisory committee.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant

³⁸ When judging "a representative number," consider focusing on investments held at year end, but also consider testing other purchases and sales during the audit period. In judging how many purchases to test, consider the volume of purchases, the control environment, the adequacy of policies, and the results of prior audits.

deficiencies/material weaknesses, and management letter comments):

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5-8 Compliance Requirements: Article XII, Section 5a, Ohio Constitution; Ohio Rev. Code §135.351 and §5705.10 & .131; and 1982 Op. Atty Gen. No. 82-031, – Allocating interest among county funds.

Summary of Requirements: Ohio Rev. Code §135.351(A) and §5705.10 govern the distribution of interest earned on money in the county treasury. Generally, all interest must be credited to the county general fund. The following are exceptions to this general rule:

- Ohio Rev. Code §135.351(B) establishes requirements for distributing monies belonging to other subdivisions which are invested or deposited by the county. If such monies are not distributed as required in divisions (B) (1), (2), or (3), Ohio Rev. Code §135.351(C) requires that all interest accruing after the required distribution date be paid to the subdivisions.
- Interest earned on money derived from a motor vehicle license or fuel tax (including local motor vehicle license tax imposed under Ohio Rev. Code Chapter 4504, motor vehicle license tax imposed under Ohio Rev. Code §4503.02, highway use tax and gasoline tax imposed under Ohio Rev. Code Chapter 5728, and motor vehicle fuel tax imposed under Ohio Rev. Code Chapter 5735 [OAG Opinion 1982-031]) must be paid into the fund to which the principal belongs, not to the general fund. Article XII, Section 5a, Ohio Constitution; 1982 Op. Atty Gen. No. 82-031.
- Federal statutory or regulatory requirements may require that interest earned on monies received from the federal government be paid into the fund to which the principal belongs. This must be determined on an individual basis with each federal program.
- Interest earned on money in the county treasury belonging to a metropolitan park district established under Chapter 1545, Ohio Rev. Code, must be paid into the fund to which the principal belongs. [Ohio Rev. Code §1545.22(B)(1), as referenced from Ohio Rev. Code §135.351(A)].
- Interest earned on the investment of monies in the county library and local government support fund (now legally known as: “county public library funds”) must be credited to that fund [Ohio Rev. Code §135.352].
- Interest earned on debt proceeds from debt issued under Ohio Rev. Code Chapter 133 must be used for purposes for which the debt was issued or credited to the general fund. [Ohio Rev. Code §5705.10(E)] (Note: *Proceeds* exclude accrued interest and premiums, which the entity must credit to the sinking or bond retirement fund.)
- Interest earned on principal of a non-expendable trust fund³⁹ established to receive donations or contributions that the donor or contributor requires to be maintained intact must be credited to the non-expendable trust fund to which the principal belongs. [Ohio Rev. Code §5705.131].

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring 		

³⁹ For accounting purposes, funds the Ohio Rev. Code describes in this section would now be *permanent* funds under GASB 54 or *private-purpose trust* funds under GASB 34.

<ul style="list-style-type: none">• Management’s identification of changes in laws and regulations• Management’s communication of changes in laws and regulations to employees		
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Suggested Audit Procedures – Compliance (Substantive) Tests:

Trace a representative selection of interest earned during the fiscal year and determine that it was paid into the proper funds.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

Section C: Community Schools

5-9 Compliance Requirements: Pursuant to Ohio Rev. Code §3314.04, Ohio Rev. Code Chapter 135 does not apply to community schools. However, other entities may impose restrictions on investments, collateral, etc. Such entities could be grantors, creditors, the sponsor, board policy, etc. Auditors should identify and list any applicable requirements below:

[Insert applicable depository and investment requirements.]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures – Compliance (Substantive) Tests

[Insert applicable audit procedures. See other OCS Sections for example audit procedures.]

Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

Appendix A Federal Agencies

Discount notes	US Govt. Guaranteed?
Fed Farm Credit Banks..... (Instrumentality)	No
FNMA (Fannie Mae)..... (Instrumentality)	No
Fed Home Loan Bank..... (Instrumentality)	No
Variable Rate Notes	
Student Loan Marketing Assn (Sally Mae) (Instrumentality)	Not directly
Small Business Administration (Agency)	Face value + int.
Agency for International Development (Agency)	Face value + int.
Coupon Securities	
FNMA (Fannie Mae)..... (Instrumentality)	No
Fed Home Loan Bank..... Instrumentality)	No
Bank for Co-ops (Instrumentality)	No
Federal Land Banks..... (Instrumentality)	No
World Bank (International Agency)	No
Private Export Funding Corp..... (Instrumentality)	No
Mortgage pass-through securities	
GNMA (Ginny Mae) (Agency)	Principal + int.
FHLMC (Freddie Mac) (Instrumentality)	No

This information is from GFOA’s *Investing Public Funds*, Page 115. It describes many of the agencies with which governments invest. If a government invests with an agency not on this list, the financial statement preparer and the auditor need another source to determine whether the Federal government insures the agency’s securities.

Appendix B Governmental Accounting Standards Board Statement No. 40

GASB 40 paragraph 6 (Codification I 50.127) requires governments to *briefly* describe policies related to the following risks for deposits and investments, *if* the government has instruments exposed to those risks:

Risk	Deposits	Investments
Credit		√
Custodial credit	√	√
Concentration of credit		√
Interest rate		√
Foreign currency	√	√

The 2010 GASB *Comprehensive Implementation Guide* (the CIG) question 1.5.2 implies the Ohio Revised Code is a source of policies requiring GASB 40 disclosure. A summary of Ohio Rev. Code requirements related to the risk disclosures of GASB Cod. I 50.128 -- .134 follows.

The Ohio Rev. Code is not the only source of potential policies requiring disclosure. For example, locally adopted policies and charter provisions may also contain policies requiring disclosure. Financial statement preparers must read GASB 40 and should refer to the CIG for more information when preparing GASB 40 disclosures.

ORC section	OCS Step	Requirement	Related GASB 40 Risk
§135.14 §135.35(A)(10)	5-1 5-7(a)	Per Ohio Rev. Code §135.01(O)(2), no load money market funds must have the highest credit rating issued by national raters. (Note: Per Imp. Guide Q. 1.9.12, governments should disclose the rating for mutual funds even if the fund limits investments to obligations the U.S. government guarantees, since it is the fund’s rating that is of concern, not its underlying investments.)	Credit risk
§135.14 §135.35(C) §135.35(O)	5-1 5-7a	<ul style="list-style-type: none"> • Investments generally must mature within 5 years of purchase. • <u>HB 225, effective 3/22/12, temporarily increases this to ten years (ORC 135.35(C)).</u> • <u>HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.</u> <ul style="list-style-type: none"> ○ <u>A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years.</u> 	Interest rate

		<ul style="list-style-type: none"> • <u>HB 225, effective 3/22/12, after an affirmative vote of the County’s investment Advisory Committee, up to 25% of the portfolio can be invested in securities that mature longer than ten years (ORC 135.35(O)).</u> 	<u>Concentrations of credit</u>
§135.14& §135.35	5-1 5-7(a)	Repurchase agreements cannot exceed 30 days.	Interest rate
§135.35(C) §135.13	5-7a 5-1	<ul style="list-style-type: none"> ▪ <u>CDs counties purchase must mature within 5 years.</u> ▪ <u>HB 225, effective 3/22/12, temporarily increases this to ten years (ORC 135.35(C)). Additionally, after an affirmative vote of the County’s investment Advisory Committee, up to 25% of the portfolio can be invested in securities that mature longer than ten years (ORC 135.35(O)).</u> • <u>HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.</u> <ul style="list-style-type: none"> ○ <u>A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years.</u> ▪ <u>CDs other subdivisions purchase must mature as follows:</u> <ul style="list-style-type: none"> - <u>Interim CDs: within one year.</u> - <u>HB 209, effective 3/22/12, eliminates the 1-year maturity limitation on certificates of deposit of interim deposits (ORC 135.13) and HB 225, also effective 3/22/12, temporarily increases the maturity period from five years to ten years (ORC 135.35(C)). Therefore CDs can have a maturity of ten years.</u> ▪ <u>HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.</u> <ul style="list-style-type: none"> ○ <u>A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years.</u> - <u>Inactive CDs: No later than the expiration of the</u> 	Interest rate

		depository agreement. Note: Only negotiable CDs are investments subject to disclosing policies related to interest rate risk. (Nonnegotiable CDs are deposits.)	
§135.14 & §135.35	5-1 5-7(a)	The market value of securities for repurchase agreements must exceed the principal value by ≥ 2%.	Interest rate
§135.14& §135.35	5-1 5-7(a)	Repurchase agreement securities must be delivered into the custody of the treasurer or governing board or an agent. ⁴⁰	Custodial credit
§135.45(B)(1)	(Tested by the State Region)	STAR Ohio must maintain the highest letter or numerical rating provided by at least one nationally recognized standard service.	Credit
§135.14 & §135.142	5-3	Commercial paper + bankers’ acceptances cannot exceed 25% of a government’s investment portfolio	Concentrations of credit
§135.14 & §135.35	5-3 5-7(a)	Commercial paper must be rated in the highest classification by at least two nationally-recognized rating services	Credit
§135.14 & §135.35	5-3 5-7(a)	Commercial paper and bankers’ acceptances must mature within 180 days. (270 days for a county’s commercial paper.)	Interest rate
§135.18 & §135.181	5-4	Depositories must collateralize deposits.	Custodial credit
§135.35	5-7(a)	A county’s corporate debt investments must mature within 2 years of purchase.	Interest rate
§135.35	5-7(a)	A county’s corporate debt investments cannot exceed 15% of its investment portfolio	Concentrations of credit
§135.35	5-7(a)	A county’s corporate debt investments must be rated in 1 of the 2 highest categories by 2 ratings organizations.	Credit
§135.35	5-7(a) ⁴¹	A county’s foreign debt investments must mature within 5 years of purchase.	Interest rate
§135.35	5-7(a)	A county’s foreign debt investments cannot exceed 1% of its investment portfolio	Concentrations of credit
§135.35	5-7(a)	A county’s foreign debt investments must be rated in 1 of the 3 highest categories by 2 ratings organizations.	Credit
§135.13, §135.14, §135.144 & §135.35	5-1, 5-3, 5-7a	Authorized investments	*

* Note: In additions to the risk-related policies above, GASB Codification I50.125 requires disclosing investments the Ohio Rev. Code (or other legal or contractual provisions) authorize. The asterisked Ohio

⁴⁰ The following general guidance can be used to determine whether securities are held in trust or by counterparty, but in the government’s name (vs. not in the government’s name). If the government receives a statement in their name, identifying the specific investments, auditors can assume the member’s internal records identify the government as owner.

⁴¹ Foreign currency risk should not apply because the statute requires “all interest and principal shall be denominated and payable in United States funds.”

Rev. Code Sections / OCS steps list authorized investments.