

CASH MANAGEMENT POLICY BOARD

Statutory Authority: 29 Del. C. § 2716

FINAL

REGULATORY IMPLEMENTING ORDER

STATEMENT OF OBJECTIVES AND GUIDELINES FOR THE INVESTMENT OF STATE OF DELAWARE FUNDS

The Cash Management Policy Board (the “**Board**”) hereby adopts and issues this ORDER repealing the prior guidelines and promulgating new guidelines for the deposit and investments of State funds (the “**Guidelines**”).

I. BACKGROUND

The Board is authorized by statute to establish policies (a) for the investment of all money belonging to the State or on deposit from its political subdivisions, except money deposited in any State Pension Fund or the State Deferred Compensation Program, and (b) to determine the terms, conditions, and other matters relating to those investments including the designation of permissible investments. *See 29 Del. C. § 2716(a)*). The Board previously promulgated Guidelines that, among other things, require collateralization of State deposits and establish maturity restrictions for securities purchased with State funds. *See 1 Del. Admin. C. § 1201*.

The Board, upon the recommendations of the Board’s Subcommittees, has proposed changes to the Guidelines. The changes (a) modify existing collateralization requirements for the State’s depository banks and (b) remove a seven-year cap on the maximum average maturity for reserve accounts managed by the State’s investment managers. The Banking Subcommittee unanimously recommended the collateralization-related changes based on a comprehensive review of collateralization practices and issues conducted by the Office of State Treasurer (“**OST**”). The Investment Subcommittee unanimously recommended the investment-related changes to accommodate the State’s new investment architecture, as approved and memorialized in Board Resolution 2018-1. The Board, after a public meeting on February 28, 2018, and by unanimous vote, approved revised Guidelines for proposal under Delaware’s Administrative Procedures Act, 20 Del. C., Ch. 101 (the “**APA**”).

In accordance with the APA, OST caused notice and a copy of the revised Guidelines to be published in the *Delaware Register of Regulations*, Vol. 21, Issue 10, from April 1, 2018 through May 1, 2018. Only one comment was received relating to Guideline § 5.3. The Delaware Bankers Association (“**DBA**”) suggested certain changes relating to the manner by which cash management banks submit “call reports” to OST. OST and DBA worked together to craft mutually acceptable changes to § 5.3. DBA also inquired about OST’s “flexibility” with respect to the manner in which State funds are

collateralized. OST has proposed changes to Section 1.2 that clarify the Board's authority to grant exceptions to the Guidelines.

Additionally, OST recommended two minor changes to address potential ambiguity. OST proposed a change to Section 5.1 to clarify that the Guidelines strive to achieve, but do not necessarily require, full collateralization of all end-of-day demand deposit account balances. OST also proposed a change to Section 5.2.1 to clarify that U.S. agency obligations, when posted as collateral by cash management banks, are not subject to the percentage limitations that apply when such obligation are purchased by the State's investment managers.

The Banking Subcommittee, after a meeting on May 9, 2018, unanimously agreed that the foregoing changes are non-substantive and recommended that the changes be incorporated into the revised Guidelines.

Deleted: new language

II. FINDINGS OF FACT

The Board, for the reasons discussed in detail at, and reflected in the minutes of, the Board meetings convened on February 28, 2018 and May 14, 2018, finds that the revised Guidelines, as further amended to address DBA's comments and OST's suggested changes, are necessary and appropriate to ensure the safe deposit and prudent investment of State funds. The Board also finds that the changes identified above are non-substantive and may be incorporated in the revised Guidelines and finally approved without re-proposal under the APA.

Deleted: concerns

Deleted: prompted by DBA

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Board concludes that it is appropriate to repeal the Guidelines presently published at 1 *Del. Admin. C.* § 1201 and replace them with the revised Guidelines attached hereto as **Exhibit A**.

IV. TEXT AND CITATION

The text of 1 *Del. Admin. C.* § 1201, as amended hereby, shall be in the form attached hereto as **Exhibit A** and shall be cited as 1 *Del. Admin. C.* § 1201, Objectives and Guidelines for the Investment of State of Delaware Funds.

V. EFFECTIVE DATE

The effective date of this Order shall be ten (10) days form the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 14th day of May, 2018.

John V. Flynn, Chair
Cash Management Policy Board

David Marvin, Chair
Investment Subcommittee

Manubhai C. Karia, Co-Chair
Investment Subcommittee

Warren C. Engle, Chair
Banking Subcommittee

Lynda A. Messick, Co-Chair
Banking Subcommittee

Kenneth A. Simpler, Member
State Treasurer

Richard J. Geisenberger, Member
Secretary, Department of Finance

Jeffrey Bullock, Member
Secretary, Department of State

Michael Morton, Member
Controller General