

**286.11-015 Permissible investments -- Power of commissioner to define permissible investments -- All permissible investments deemed to be held in trust for benefit of purchasers and holders.**

- (1) Every licensee shall, at all times, maintain permissible investments that have a market value that is computed in accordance with generally accepted accounting principles. These investments shall not be less than the aggregate amount of all outstanding payment instruments.
- (2) Except to the extent otherwise limited in subsection (5) of this section, the following investments are permissible for a licensee:
  - (a) Cash, time deposits, savings deposits, demand deposits, a certificate of deposit, or senior debt obligation of an insured depository institution as defined in 12 U.S.C. sec. 1813 or as defined under 12 U.S.C. sec. 1781;
  - (b) Banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the federal reserve system and is eligible for purchase by a federal reserve bank;
  - (c) An investment bearing a rating of one (1) of the three (3) highest grades as defined by a nationally recognized organization that rates securities;
  - (d) An investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;
  - (e) Receivables that are payable to a licensee from its agents, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection if the licensee does not hold, at one (1) time, receivables under this paragraph from any one (1) person aggregating more than ten percent (10%) of the licensee's total permissible investments. A receivable is deemed past due or doubtful of collection if not remitted to the licensee in five (5) business days or less; and
  - (f) A share or certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission pursuant to the Investment Companies Act of 1940, 15 U.S.C. secs. 80a-1 et seq., and whose portfolio is restricted by the management company's investment policy to investments specified in paragraphs (a) to (d) of this subsection.
- (3) The following investments are permissible under this section, but only to the extent specified as follows:
  - (a) An interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this paragraph do not exceed twenty percent (20%) of the total permissible investments of a licensee and the licensee does not, at one (1) time, hold investments under this paragraph in any one (1) person aggregating more than ten percent (10%) of

- the licensee's total permissible investments;
- (b) A share of a person traded on a national securities exchange or a national over-the-counter market or a share or certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission pursuant to 15 U.S.C. secs. 80a-1 to 80a-64, and whose portfolios are restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if:
    - 1. The aggregate of investments under this paragraph does not exceed twenty percent (20%) of the total permissible investments of a licensee; and
    - 2. The licensee does not, at one (1) time, hold investments under this paragraph in any one (1) person aggregating more than ten percent (10%) of the licensee's total permissible investments; and
  - (c) A demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange, if:
    - 1. The aggregate amount of principal and interest outstanding under demand-borrowing agreements under this paragraph does not exceed twenty percent (20%) of the total permissible investments of a licensee; and
    - 2. The licensee does not, at one (1) time, hold principal and interest outstanding under demand-borrowing agreements under this paragraph with any one (1) person aggregating more than ten percent (10%) of the licensee's total permissible investments.
- (4) The aggregate of investments under subsection (3) of this section shall not exceed fifty percent (50%) of the total permissible investments of a licensee.
  - (5) The commissioner may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money, time deposits, savings deposits, demand deposits, and certificates of deposit issued by a federally insured financial institution. The commissioner may by rule or order allow other types of investments that the commissioner determines to be substantially equivalent to other permissible investments in regards to safety and soundness.
  - (6) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of insolvency or bankruptcy of the licensee.

**Effective:** July 12, 2012

**History:** Amended 2012 Ky. Acts ch. 66, sec. 1, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 24, sec. 837, effective July 15, 2010. -- Created 2006 Ky. Acts ch. 247, sec. 8, effective April 24, 2006.

**Legislative Research Commission Note (7/12/2006).** This section was created in 2006 Ky. Acts ch. 247 as a new section of KRS Chapter 366A. Sec. 38 of that same bill also required that all sections of KRS Chapters 287, 288, 290, 291, 294, 366, 366A,

and 368 be renumbered as sections of a single KRS chapter entitled the "Kentucky Financial Services Code." Therefore, the Statute Reviser, acting under KRS 7.136(1), has codified this section as a new section of KRS Chapter 286.