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Sequence Number: 03-25-21
 Notice ID(s): 3273
 File Date: 3/12/2021

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Collateral Pool Board
Division:	Investments
Contact Person:	Tim McClure
Address:	502 Deaderick Street, Andrew Jackson Building, 13 th Floor, Nashville 37243
Phone:	(615) 532-1166
Email:	Tim.McClure@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Jamie Formont
Address:	502 Deaderick Street, Andrew Jackson Building, 13 th Floor, Nashville 37243
Phone:	(615) 734-2245
Email:	Jamie.Formont@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Virtual meeting via WebEx		
Hearing Date:	05/28/2021		
Hearing Time:	1:00 p.m.	X	CST/CDT
			EST/EDT

Additional Hearing Information:

The hearing will be available via WebEx. Please visit <https://treasury.tn.gov/Explore-Your-TN-Treasury/Communications/Meetings-and-Events> for the WebEx link which will be posted prior to the meeting, or request the WebEx link from the Contact Person listed above.

<https://tngov.webex.com/tngov/j.php?MTID=m590aec8c6dae87e09ecfb3f3b7f864f6>

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1700-04-01	Bank Collateral Pool
Rule Number	Rule Title
1700-04-01-.02	Board Membership and Operations

1700-04-01-.03	Admission to Collateral Pool
1700-04-01-.04	Determination of Collateral Pledge Level
1700-04-01-.07	Reporting by Qualified Public Depository
1700-04-01-.08	Reports and Procedures for Trustee Custodians
1700-04-01-.10	Withdrawal from Collateral Pool Participation
1700-04-01-.11	Reports by Public Depositors

Rule 1700-04-01-.02 Board Membership and Operations is amended by deleting the language contained in subdivision (2)(a) in its entirety and substituting it instead with the following language:

(2) Meetings.

- (a) Called Meetings and Notice. The Board shall meet at the call of the chairperson or upon written request to the chairperson by four (4) members of the Board. Public notice of Board meetings shall be posted and Board meetings conducted electronically or by other means of communication shall be conducted in accordance with T.C.A. title 8, chapter 44, part 1 and other applicable laws and rules.

T.C.A. §§ 9-4-503 and 9-4-508.

Rule 1700-04-01-.03 Admission to Collateral Pool is amended by deleting the language contained in subparagraph 12. under subdivision (1)(b) in its entirety and renumbering the subparagraphs accordingly.

T.C.A. §§ 9-4-503 and 9-4-508.

Rule 1700-04-01-.03 Admission to Collateral Pool is amended by deleting the language contained in subdivision (2)(c) in its entirety and substituting it instead with the following language:

(2) Admission Criteria.

- (c) Evaluation of Financial Ratios. The Board may consider any one, all, or any combination of the benchmarks established by the Board which are derived from and calculated by using the following ratios taken from the schedule submitted by the applicant pursuant to rule 1700-04-01-.03(1)(b)13. The ratios will be analyzed against the benchmarks:

1. Capital Adequacy Ratios:

- (i) Primary Capital to Assets.

$$\frac{\text{Total Equity Capital}}{\text{Total Assets}}$$

- (ii) Total Capital to Assets.

$$\frac{\text{Subordinated Notes \& Debentures} \\ \text{Limited Life Preferred Stock} \\ \text{Total Equity Capital}}{\text{Total Assets}}$$

- (iii) (I) For banks, Regulatory (Tier 1) Capital

Calculated in accordance with 12 CFR Part 225; 12 CFR Part 208; or 12 CFR 325, as applicable to the applicant.

- (II) For savings institutions, Core (Tier 1) Capital

Calculated in accordance with 12 CFR Part 567.5(a), as applicable to the applicant.

(III) For public depositors adopting the Community Bank Leverage Ratio Framework, Leverage Ratio (Tier 1) Capital

Calculated in accordance with 12 CFR Part 3; 12 CFR Part 217; and 12 CFR Part 324.

(iv) (I) For banks, Regulatory (Tier II) Capital

Calculated in accordance with 12 CFR Part 225; 12 CFR Part 208; or 12 CFR Part 352, as applicable to the applicant.

(II) For savings institutions, Supplemental (Tier II) Capital

Calculated in accordance with 12 CFR Part 567(b), as applicable to the applicant. Savings institutions must pass the three (3) risk-based capital requirements set forth in 12 CFR 567.2(a)(1).

(III) For public depositors adopting the Community Bank Leverage Ratio Framework the Tier II capital ratio will not be considered for admission or collateral pledge levels.

2. Asset Quality Ratios:

(i) Loan Loss Allowance to Non-Performing Loans.

$$\frac{\text{Allowance for Loan Losses}}{\text{Total Loans Past Due 90 Days} + \text{Total Non-Accrual Loans}}$$

(ii) Loans 90 Plus Days to Total Loans.

$$\frac{\text{Total Non-Accrual Assets} + \text{Total Loans Past Due 90 Days}}{\text{Total Loans}}$$

(iii) Non-Performing Assets to Total Assets.

$$\frac{\text{Total Loans Past Due 90 Days} + \text{Total Non-Accrual Loans} + \text{Other Real Estate Owned}}{\text{Total Assets}}$$

3. Earnings Ratio:

$$\frac{\text{Return on Average Assets (Annualized)}}{\text{Average Assets}} = \frac{\text{Net Income (Annualized)}}{\text{Average Assets}}$$

4. Liquidity Ratio:

$$\frac{\text{Loans to Total Assets}}{\text{Total Assets}} = \frac{\text{Total Loans}}{\text{Total Assets}}$$

Authority: T.C.A. §§ 9-4-503 and 9-4-508.

Rule 1700-04-01-.04 Determination of Collateral Pledge Level is amended by deleting the language contained in its entirety and substituting it instead with the following language:

- (1) Collateral Pledge Level. A qualified public depository shall pledge eligible collateral having a market value of not less than the greater of the average daily balance or average monthly balance of public deposits held by the qualified public depository multiplied by the qualified public depository's collateral pledging level. The collateral pledging level for all qualified public depositories shall be calculated quarterly according to the following schedule:
 - (a) The collateral pledge level shall equal one hundred percent (100%) for the following: public depositories meeting seven (7) out of the nine (9) benchmarks and three (3) out of the four (4) capital ratios pursuant to rule 1700-04-01-.03(2)(b) and (c); and public depositories electing to use the Community Bank Leverage Ratio Framework contained in 12 CFR Part 3, 12 CFR Part 217, 12 CFR Part 324 meeting six (6) out of the eight (8) benchmarks and two (2) out of the three (3) capital ratios pursuant to rule 1700-04-01-.03(2)(b) and (c).
 - (b) The collateral pledge level shall equal one hundred fifteen percent (115%) for the following: public depositories meeting fewer than seven (7) out of the nine (9) benchmarks or fewer than three (3) out of the four (4) capital ratios pursuant to rule 1700-04-01-.03(2)(b) and (c); and public depositories electing to use the Community Bank Leverage Ratio Framework contained in 12 CFR Part 3, 12 CFR Part 217, 12 CFR Part 324 meeting fewer than six (6) out of the eight (8) benchmarks or fewer than two (2) out of the three (3) capital ratios pursuant to rule 1700-04-01-.03(2)(b) and (c).
 - (c) The Board may determine from time to time the benchmark levels referenced in this chapter. The benchmarks established by the Board for collateral pool admission may differ from the benchmark levels established by the Board for evaluating collateral pool pledge levels. The financial information necessary in determining whether the benchmark levels have been met by a qualified public depository for a given quarter shall be taken from the quarterly report provided to the board from the public depository or any other source the State Treasurer deems reliable.
- (2) Minimum Pledged Collateral. Notwithstanding the average daily balance or average monthly balance, qualified public depository shall maintain a minimum of pledged eligible collateral whose market value is not less than one hundred thousand dollars (\$100,000.00).
- (3) Temporary Increases in Collateral. A qualified public depository which accepts any public deposit that causes its public deposits to exceed the greater of its average daily balance, or average monthly balance by twenty-five percent (25%) shall be required to pledge additional eligible collateral with the Treasurer within two (2) business days of the deposit. The additional eligible collateral shall be equal to the difference between the actual public deposits and the greater of the average daily balance or average monthly balance times the applicable collateral pledge level. The additional eligible collateral shall not be required if deposits causing the increase are withdrawn within the two (2) business days and prior to pledging of the additional collateral. Additional pledged collateral shall be included in required collateral and held by the Treasurer until the next regular monthly report is filed.

T.C.A. §§ 9-4-503 and 9-4-508.

Rule 1700-04-01-.07 Reporting by Qualified Public Depository is amended by deleting the language contained in subdivisions (2)(a), (2)(b), and (2)(c) and substituting it instead with the following language:

- (2) Quarterly Reports.
 - (a) Report Source. The Treasurer shall obtain on a quarterly basis, from whatever source the Treasurer deems reliable, a statement of selected financial information from the quarterly call report required to be filed by qualified public depositories under the

Federal Deposit Insurance Act, 12 USC Section 1817 et seq. Upon written notice to all qualified public depositories, the Treasurer may require the qualified public depositories to file such report directly with the Treasurer.

Authority: T.C.A. §§ 9-4-503 and 9-4-508.

Rule 1700-04-01-.08 Reports and Procedures for Trustee Custodians is amended by deleting the title of the rule and substituting it with the title Trustee Custodians, and deleting the language in the rule in its entirety and substituting it instead with the following language:

- (1) Appointment of Trustee Custodians. Upon being designated as a qualified public depository, the qualified public depository shall appoint one (1) or more trustee custodians from the deposit of eligible collateral by the qualified public depository. The appointment shall be made on a form provided by the Treasurer and shall be delivered to and accepted by the Treasurer prior to the deposit of any collateral with the trustee custodian.
- (2) Notification. The Treasurer shall notify the qualified public depository of the acceptance or denial of any appointment of a trustee custodian.
- (3) Report Contents. Every trustee custodian shall submit a monthly report to the Treasurer providing a description of eligible collateral securities deposited by the qualified public depository, including the par value of the eligible collateral, as well as other information requested by the Treasurer.
- (4) When Due. The trustee custodian shall file the report with the Treasurer on a schedule as established by the Treasurer. The report shall include information as of the end of the scheduled month.
- (5) Amended Reports. A trustee custodian shall submit to the Treasurer an amended report at any time that it determines the information on any prior report was incomplete or inaccurate. The amended report shall be filed not later than ten (10) business days after it determines that any prior report was inaccurate or incomplete.

T.C.A. §§ 9-4-503 and 9-4-508.

Rule 1700-04-01-.10 Withdrawal from Collateral Pool Participation is amended by deleting the language contained in subdivision (1)(c) and substituting it instead with the following language:

- (1) Voluntary Withdrawal.
 - (c) Reports. The withdrawing qualified public depository shall continue to file monthly and annual reports with the Treasurer during the period in which the contingent liability agreement is in effect. To the extent that the Treasurer requires qualified public depositories to submit quarterly reports directly to the Treasurer pursuant to this chapter, this requirement shall continue to be in effect during the period in which the contingent liability agreement is in effect.

Authority: T.C.A. §§ 9-4-503 and 9-4-508.

Rule 1700-04-01-.11 Reports by Public Depositors is amended by deleting the title of the rule and substituting it with the title Public Depositor Accounts, and deleting the language of the rule and substituting it instead with the following language:

A public depositor shall ensure that the name of the public depositor is on the account title or certificate of deposit provided to the public depositor by the qualified public depository in a manner sufficient to disclose the identity of the public depositor.

Authority: T.C.A. §§ 9-4-503 and 9-4-508.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: March 12, 2021

Signature: *Alison Cleaves*

Name of Officer: Alison Cleaves

Title of Officer: Assistant Treasurer for Legal, Compliance and Audit

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Filed with the Department of State on: 3/12/2021


Tre Hargett
Secretary of State

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MAR 12 2021

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