

§6100-U. Permissible investments

Permissible investments are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Types of permissible investments. The following investments are permissible under section 6100-T:

A. Cash, including demand deposits, savings deposits and funds in such accounts held for the benefit of the licensee's customers in a federally insured depository financial institution, and cash equivalents, including automated clearinghouse items in transit to the licensee and automated clearinghouse items or international wires in transit to a payee, cash in transit via armored car, cash in so-called smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank or money market mutual funds rated "AAA" by S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service; [PL 2023, c. 662, §2 (NEW).]

B. Certificates of deposit or senior debt obligations of an insured depository institution, as defined in the Federal Deposit Insurance Act, 12 United States Code, Section 1813(c)(2) or as described under the Federal Credit Union Act, 12 United States Code, Section 1751 et seq.; [PL 2023, c. 662, §2 (NEW).]

C. An obligation of the United States or a commission, agency or instrumentality of the United States; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency or instrumentality of the United States; and [PL 2023, c. 662, §2 (NEW).]

D. The full drawable amount of an irrevocable standby letter of credit, for which the stated beneficiary is the administrator, that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within 7 days of presentation of the items required by subparagraph (3).

(1) The letter of credit:

(a) Must be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states or a foreign bank that is authorized under state law to maintain a branch in a state that bears an eligible rating or whose parent company bears an eligible rating and is regulated, supervised and examined by federal or state authorities in the United States having regulatory authority over banks, credit unions and trust companies;

(b) Must be irrevocable and unconditional and indicate that it is not subject to any condition or qualifications outside of the letter of credit;

(c) May not contain reference to any other agreements, documents or entities or otherwise provide for any security interest in the licensee; and

(d) Must contain an issue date and expiration date and expressly provide for automatic extension, without a written amendment, for an additional period of one year from any current or future expiration date, unless the issuer of the letter of credit notifies the administrator in writing by certified or registered mail or courier mail or other receipted means, at least 60 days prior to the expiration date, that the irrevocable letter of credit will not be extended.

(2) If a notice of expiration or nonextension of a letter of credit is issued under subparagraph (1), division (d), the licensee shall demonstrate to the satisfaction of the administrator, 15 days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with section 6100-T, subsection 1 upon the expiration of the letter of credit. If the licensee is not able to do so, the administrator may draw on the letter of credit in an amount up

to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with section 6100-T, subsection 1. Such a draw must be offset against the licensee's outstanding money transmission obligations. The drawn funds must be held in trust by the administrator or the administrator's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

(3) The letter of credit must state that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:

- (a) The original letter of credit, including any amendments; and
- (b) A written statement from the beneficiary stating that any of the following events have occurred:
 - (i) The filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 United States Code, Sections 101 to 110 for bankruptcy or reorganization;
 - (ii) The filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for the dissolution or reorganization of the licensee;
 - (iii) The seizure of assets of a licensee by an administrator pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation or condition that has caused or is likely to cause the insolvency of the licensee; or
 - (iv) The beneficiary has received notice of expiration or nonextension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with section 6100-T, subsection 1 upon the expiration or nonextension of the letter of credit.

(4) The administrator may designate an agent to serve on the administrator's behalf as beneficiary to a letter of credit as long as the agent and letter of credit meet requirements established by the administrator. The administrator's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of this paragraph are assigned to the administrator.

(5) The administrator may participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including but not limited to services provided by NMLS and the State Regulatory Registry LLC or successor organization. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Investment limits. Unless permitted by the administrator by rule or order to exceed the limit as set forth in this subsection, the following investments are permissible under section 6100-T to the extent specified.

A. Receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than 7 days old are permissible up to 50% of the aggregate value of the licensee's total permissible investments. [PL 2023, c. 662, §2 (NEW).]

B. Of the receivables permissible under paragraph A, receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed 10% of the aggregate value of the licensee's total permissible investments. [PL 2023, c. 662, §2 (NEW).]

C. The following investments are permissible up to 20% per category and combined up to 50% of the aggregate value of the licensee's total permissible investments:

- (1) A short-term investment, up to 6 months in duration, bearing an eligible rating;
 - (2) Commercial paper bearing an eligible rating;
 - (3) A bill, note, bond or debenture bearing an eligible rating;
 - (4) United States tri-party repurchase agreements collateralized at 100% or more with United States government or agency securities, municipal bonds or other securities bearing an eligible rating;
 - (5) Money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service; and
 - (6) A mutual fund or other investment fund composed exclusively of one or more permissible investments listed in subsection 1, paragraphs A to C. [PL 2023, c. 662, §2 (NEW).]
- D. Cash, including demand deposits, savings deposits and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions is permissible up to 10% of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in its most recent examination and the foreign depository institution:
- (1) Has an eligible rating;
 - (2) Is registered under the federal foreign account tax compliance laws under the federal Hiring Incentives to Restore Employment Act, Title V, Subtitle A;
 - (3) Is not located in a country subject to sanctions from the United States Department of the Treasury, Office of Foreign Assets Control; and
 - (4) Is not located in a high-risk or noncooperative jurisdiction as designated by the Financial Action Task Force or successor organization. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

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