

SINGLE BANK COLLATERAL POOL DISCLOSURE CIRCULAR

Neb.Rev.Stat. § 77-2386 et. seq. requires banks to collateralize public funds and *Neb.Rev.Stat. § 77-2398* allows banks to collateralize public funds using either a dedicated or pooled method. Administration of the pooled method (“Pooled Method”) is delegated to the Director of the Department of Banking and Finance (“Department”) who is authorized to appoint an administrator to carry out its rights and responsibilities in respect to the Pooled Method for the state of Nebraska. The Nebraska Bankers Insurance and Services Company (NBISCO), a wholly- owned subsidiary of the Nebraska Bankers Association, has been appointed and has entered into a contract with the Department to administer the Nebraska Single Bank Collateral Pool (“Pooled Method Administrator”). NBISCO receives monthly reports from banks and qualified trustees to monitor the collateralization of deposits and assesses fees to participating banks for administering the Pooled Method. NBISCO receives no compensation from the Department or the state. All Program Administration fees are paid by participating banks. NBISCO is currently the only approved Pooled Method Administrator.

Each participating bank selects a Qualified Trustee to hold collateral pledged for public funds. Each participating bank pledges a pool of collateral held by a Qualified Trustee to secure all of the public deposits above the FDIC insurance limit. Pooled collateral is assigned to the Pooled Method Administrator instead of each public depositor. A Qualified Trustee is not permitted to release collateral without prior permission from the Pooled Method Administrator.

The list of securities that a bank may use as collateral under the Pooled Method can be accessed at <https://nebraskalegislature.gov/laws/statutes.php?statute=77-2386>.

There are three Agreements required to utilize the Pooled Method that reflect the roles and responsibilities for the Department, Pooled Method Administrator, Banks, and Qualified Trustees in administering the Program. These agreements are the Single Bank Collateral Pool Administrator Agreement, Custodial Agreement, and Security Agreement. Electronic copies of the agreements can be accessed via the Administrator’s website at: www.nebankers.org/nepooledcollateral.html. Some banks select the Federal Reserve as qualified trustee to hold pledged collateral. In these instances, the Federal Reserve Bank Operating Circular No. 7 (Book-entry Securities Account Maintenance and Transfer Services) will govern the actions of the Qualified Trustee instead of the Custodial Agreement. The public depositor should be aware that the rules of the Operating Circular may differ from the Custodial Agreement and state or local requirements.

While the Pooled Method provides efficiency for banks as they collateralize public funds, there are certain risks associated with the Pooled Method and such risks are assumed by public depositors. It is advised that public depositors discuss with their depository banks the benefits and risks associated with the Pooled Method as well as the dedicated method.

Public depositors may also contact NBISCO at (402) 474-1555 or nepooledcollateral@nebankers.org with questions or for additional information. The Pooled Method is offered as a convenience for banks and public depositors. The Department assumes no risk associated with accounts secured by pooled collateral under the Pooled Method.

Following is a summary of some of the risks of the Pooled Method.

Risks of the Pooled Method

1. State law establishes eligibility criteria for collateral. The Department does not value, monitor or approve each depositor's collateral. The Pooled Method Administrator does not receive collateral reports on a "real-time" basis. Therefore, balances on any specific date may not be fully collateralized.
2. A bank may fail due to liquidity problems, especially if associated with undetected fraud. In such instances, any recent public deposits may be insufficiently collateralized, causing a shortfall to "all" local governments having accounts with the failed bank secured by the Pooled Method. Such an event could trigger liquidity and budget problems for some public depositors in the pool.
3. In the event a bank fails during a market crisis, the liquidation of collateral may generate less proceeds than expected. Some securities may be thinly traded and the Department or Receiver of the failed bank may have to accept low bids or delay liquidation of some securities.
4. It can take up to 10 business days from month-end for the Pooled Method Administrator to receive collateral reports from depository banks and qualified trustees. It can also take up to 30 business days from month-end before the public depositor receives or has access to reports from the Pooled Method Administrator.
5. The Pooled Method allows a bank three (3) business days to pledge sufficient collateral and five (5) business days to correct a deficiency if the account is secured by a Federal Home Loan Bank letter of credit. Although this time is less than the maximum allowed by statute, it poses some risk and may be longer than allowed by certain local governments when using the dedicated method.

NEITHER THE DEPARTMENT, THE STATE, NOR THE POOLED METHOD ADMINISTRATOR ASSUMES ANY LIABILITY FOR ANY LOSS BY A PUBLIC DEPOSITOR UTILIZING THE POOLED METHOD.(§77-23,107)