

WEST VIRGINIA CODE: §33-8-29

§33-8-29. Same - Securities lending, repurchase, reverse repurchase and dollar roll transactions.

(a) An insurer may enter into securities lending, repurchase, reverse repurchase and dollar roll transactions with business entities, subject to the following requirements:

(1) The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan in subsection (a), section four of this article that specifies guidelines and objectives to be followed, such as:

(A) A description of how cash received will be invested or used for general corporate purposes of the insurer;

(B) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

(C) The extent to which the insurer may engage in these transactions.

(2) The insurer shall enter into a written agreement for all transactions authorized in this section other than dollar roll transactions. The written agreement shall require that each transaction terminate no more than one year from its inception or upon the earlier demand of the insurer. The agreement shall be with the business entity counterparty, but for securities lending transactions, the agreement shall be with an agent acting on behalf of the insurer, if the agent is a qualified business entity, and if the agreement:

(A) Requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(B) Prohibits securities lending transactions under the agreement with the agent or its affiliates.

(3) Cash received in a transaction under this section shall be invested in accordance with this article and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes. For so long as the transaction remains outstanding, the insurer, its agent or custodian shall maintain, as to acceptable collateral received in a transaction under this section, either physically or through the book entry systems of the federal reserve, depository trust company, participants trust company or other securities depositories approved by the commissioner:

(A) Possession of the acceptable collateral;

(B) A perfected security interest in the acceptable collateral; or

(C) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(4) In a securities lending transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent of the market value of the securities loaned by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent of the market value of the loaned securities.

(5) In a reverse repurchase transaction, (other than a dollar roll transaction), the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to ninety-five percent of the market value of the securities transferred by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than ninety-five percent of the market value of the securities transferred, the business entity counterparty is obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals ninety-five percent of the market value of the transferred securities.

(6) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal to the market value of the securities transferred by the insurer in the transaction as of the transaction date.

(7) In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value at least equal to one hundred two percent of the purchase price paid by the insurer for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent of the purchase price paid by the insurer, the business entity counterparty is obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent of the purchase price. Securities acquired by an insurer in a repurchase transaction may not be sold in a reverse repurchase transaction, loaned in a securities lending transaction or otherwise pledged.

(b) The limitations of sections twenty-three and thirty of this article do not apply to the business entity counterparty exposure created by transactions under this section. For purposes of calculations made to determine compliance with this subdivision, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer may not enter into a transaction under this section if, as a result of and after giving

effect to the transaction:

(1) The aggregate amount of securities then loaned, sold to or purchased from any one business entity counterparty under this section would exceed five percent of its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect will be given to netting provisions under a master written agreement; or

(2) The aggregate amount of all securities then loaned, sold to or purchased from all business entities under this section would exceed forty percent of its admitted assets but the limitation of this subdivision does not apply to reverse repurchase transactions for so long as the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and subject to a plan approved by the commissioner.