

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 892 Department or Agency Office of State Treasurer
Rule No. 892-X-1-.07
Rule Title: Custodians
 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 4122-23, Code of Alabama 1975

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Daria Story
Date 11.7.16

(DATE FILED)
(STAMP)

Office of State Treasurer
SAFE Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Office of State Treasurer

RULE NO. & TITLE:

892-X-1-.04 Collateral Pledging Levels
892-X-1-.07 Custodians
892-X-1-.18 Information

INTENDED ACTION:

The Office of State Treasurer, on behalf of the SAFE Board of Directors, proposes to amend certain existing Rules for the SAFE Program codified in Title 41, Chapter 14A, Code of Alabama 1975, as amended.

To amend Rule No. 892-X-1-.04 Collateral Pledging Levels
To amend Rule No. 892-X-1-.07 Custodians
To amend Rule No. 892-X-1-.18 Information

SUBSTANCE OF PROPOSED ACTION:

To amend Rule No. 892-X-1-.04 Collateral Pledging Levels to lower required pledging levels of Qualified Public Depositories from a range of 85% to 125% to a range of 70% to 115%.

To amend Rule No. 892-X-1-.07 Custodians to replace outdated reference to SAS70 audit to SSAE16, or similar, audit.

To amend Rule No. 892-X-1-.18 Information to direct Qualified Public Depositories to the SAFE report portal for certain information.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

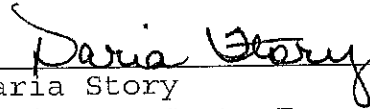
By personal appearance, mail, or electronic mail received no later than 1:00 PM CST on Friday, January 6, 2017, to: Office of State Treasurer, State Capitol S-106, 600 Dexter Avenue, Montgomery, AL 36104; telephone 334-242-7501; email daria.story@treasury.alabama.gov.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

January 6, 2017 at 1:00 PM CST at the Office of State Treasurer,
State Capitol Building, Room S-106, 600 Dexter Avenue,
Montgomery, AL 36104

CONTACT PERSON AT AGENCY:

Daria Story, Assistant State Treasurer, 334-242-7506,
daria.story@treasury.alabama.gov



Daria Story
Assistant State Treasurer

892-X-1-. 07 Custodians.

(1) Each custodian designated by a QPD ("Custodian") shall be a bank, savings association or trust company that:

(a) Is organized and existing under the laws of the State of Alabama, any other state of the United States, or the United States.

(b) Has executed a Collateral Agreement in the format prescribed by the SAFE Board.

(c) Agrees to be subject to the jurisdiction of the courts of this state, or of courts of the United States which are located within this state, for the purpose of any litigation arising.

(d) Has been approved by the Treasurer to act as a custodian.

(e) Upon request from the Treasurer, provides a confirmation of securities pledged to the Treasurer by each QPD in the format prescribed by the Treasurer.

(f) Agrees to provide financial information to the Treasurer upon request.

(g) Provides immediate notification to SAFE when any pledged mortgage backed security, CMO, or similar security is paid off.

(h) If a trust company, agrees to the following:

1. Provide a notice of good standing from its charter authority;

2. Hold and maintain \$1 million in tangible capital;

3. Submit regulatory financial reports on a quarterly basis;

4. Submit its annual SSAE16SAS-70, or similar, audit, and the results be acceptable to SAFE;

5. Notify Treasurer of any and all public enforcement actions immediately.

(2) Financial institutions which exercise trust powers may hold collateral (other than Letters of Credit and the proceeds from any draws on any Letters of Credit) as security for deposits situated in that financial institution through its trust division.

(3) The Treasurer may designate one or more custodians a Treasurer-Designated Custodian to perform such functions as the Treasurer shall determine are appropriate and desirable in connection with the administration of the SAFE Program. Each Treasurer-Designated Custodian shall be a bank, savings association or trust company that meets the requirements of a Custodian.

(4) A Custodian may be assessed an administrative penalty or disqualified if it does one or more of the following:

- (a) Fails to execute a Collateral Agreement.
- (b) Releases pledged collateral without the Treasurer's approval.
- (c) Fails to provide complete confirmations of pledged collateral within 7 business days.
- (d) Fails to honor a request for reports, or an examination of funds or securities.
- (e) Fails to pay an administrative penalty.

(5) The following administrative penalties may be enforced upon a Custodian in lieu of suspension or involuntary withdrawal:

(a) Notice of SAFE violation

1. The written notice of SAFE violation will be issued by email or fax to the custodian contact included in the collateral agreement upon the first occurrence of any action listed in (4) above.

2. The Custodian shall prepare a written response to the notice of SAFE violation that provides a corrective action plan within 30 calendar days of acknowledged receipt of the notice; or provides a statement with substantiating documentation that the infraction has not occurred.

(b) Notice of SAFE Fine

1. A written notice of SAFE fine shall be issued by email or fax to the custodian contact included in the collateral agreement under the following conditions:

(i) The Recurrence of a previous infraction cited by a notice of SAFE violation;

(ii) No response is received from the Custodian to either the notice of SAFE violation or the notice of SAFE fine;

(iii) The Custodian refuses to correct a violation;

(iv) The violation significantly harms the SAFE Program.

(2) The Custodian shall prepare a written response to the notice of SAFE fine that provides a corrective action plan within 30 calendar days of acknowledged receipt of the notice and includes payment of fine by check; or provides a statement with substantiating documentation that the infraction has not occurred;

(c) Fines to be imposed against a Custodian will be as follows:

1. The first Recurrence of a violation shall result in a \$2,500 fine;
2. The second Recurrence of a violation or a violation that causes significant harm to the SAFE Program shall be referred to the SAFE Board for review and assessment of penalty or disqualification as allowed by SAFE Law.

Author: Daria Story, SAFE Division, Office of State Treasurer

Statutory Authority: Sections 41-14A-2, 41-14A-5, 41-14A-6 and 41-14A-7,
Code of Alabama 1975, as amended.

History: **New Rule:** Filed March 28, 2001; effective May 2, 2001.

Amended (only rule number changed): Filed September 19, 2002; effective October 24, 2002. **Amended:** Filed January 23, 2004; effective February 27, 2004.

Amended: Filed December 20, 2004; effective January 24, 2005. **Amended:**
Filed August 20, 2008; effective September 24, 2008.

Amended: Filed July 20, 2011; effective November 7, 2011.