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Statement of Position Qualified Safekeepers

Minnesota law identifies a limited group of entities that may hold securities in safekeeping for local units of government.¹ This limited group of entities includes:

- (1) any Federal Reserve Bank;
- (2) any bank authorized under the laws of the United States or any state to exercise corporate trust powers, including, but not limited to, the bank from which the investment is purchased;
- (3) a primary reporting dealer in United States government securities to the Federal Bank of New York; or
- (4) a securities broker-dealer or an affiliate of it, that meets the following requirements:
 - (i) it is registered as a broker-dealer under chapter 80A [State securities regulations] or is exempt from the registration requirements;
 - (ii) it is regulated by the Securities and Exchange Commission, and
 - (iii) it maintains insurance through the Securities Investor Protection Corporation or excess insurance coverage in an amount equal to or greater than the value of the securities held.

¹ Minn. Stat. § 118A.06 (a).

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This Statement of Position is not legal advice and is subject to revision.

An Equal Opportunity Employer

Brokers as Safekeepers

Certain brokers qualify as safekeepers. A broker can purchase a security for a government entity and keep it in its account at the Depository Trust Company (DTC) only if the broker is either a primary reporting dealer or if the broker is registered as required by Minnesota Securities Regulations as a broker-dealer or is exempt from the registration requirements.² These brokers can hold public investments to the extent they maintain insurance through the Securities Investors Protection Corporation (SIPC) or excess SIPC coverage sufficient to protect the securities in their possession.

Banks as Safekeepers

A bank with corporate trust powers is qualified to hold public investments. The statute does not require the securities to be held in the bank's trust department. Under the rules established by the Government Accounting Standards Board (GASB), custodial credit risk exists where an entity obtains and holds securities on behalf of a public investor. Brokers can eliminate this risk by maintaining SIPC coverage a required by statute.

For banks that either obtain securities for or sell securities to the government investor, there will be custodial credit risk (pursuant to the GASB rules) unless the bank transfers the securities to its trust department, or to a third party custodian that acts as an agent for the public investor. The Office of the State Auditor recommends that the level of custodial credit risk be addressed in the public entity's investment policy.

The Office of the State Auditor also recommends that public entities limit holders of their investments to those that meet the statutory criteria.³ If a broker is the holder of investments for a public entity, the public entity must verify that the broker has SIPC and excess SIPC coverage sufficient to protect all securities in its possession.

² Minn. Stat. § 118A.06 (a) (4). State laws regulating securities in Minnesota are found in Minn. Stat. ch. 80A.

³ See Minn. Stat. § 118A.06 (a) (4).