Public Funds Guaranty Pool Rules

Mississippi Treasury Department

State of Mississippi

Revised March 2006

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Public Funds Guaranty Pool

1.01 Purpose

Mississippi Code Ann. Section 27-105-6 creates a public funds guaranty pool as an alternative means for securing public deposits. The purpose of these rules is to establish requirements for admission, participation and administration of the public funds guaranty pool as required by and consistent with Section 27-105-6.

1.02 Board Membership and Operations

(1) Initial Board Membership

(a) Banking Industry Representatives. Appointment of members in accordance with Section 27-105-6 shall be effective at the time such member is notified by the State Treasurer of such appointment. The Mississippi Bankers Association shall designate the initial terms of the representatives of financial institutions as one (1) year or two (2) year terms. The initial representatives of financial institutions shall serve the term designated by the Mississippi Bankers Association. All subsequent representatives of financial institutions shall serve two (2) year terms unless completing the unexpired term of a member due to a vacancy. All members shall continue to serve until a successor is appointed.

(2) Meetings

(a) How called. The Board shall meet at the call of the Chairman or upon written request to the Chairman by four (4) members of the Board. Unless circumstances prevent, the Secretary shall notify members of the date, time and location of each meeting at least five (5) calendar days prior to the date of the meeting. Notice of the Board meetings shall be by post, telephone or electronic mail.

(b) Quorum. A quorum of the Board shall consist of five (5) members of the Board. Notwithstanding the presence of a quorum, where these rules require certain actions to be taken by a specified number of votes, the action may not be taken unless the requisite number of votes is cast.

(c) Presiding Officer. The Chairman shall preside at all meetings of the Board. In the Chairman's absence, the Vice-Chairman shall preside.

(d) Executive Session. In the event that information deemed confidential pursuant to Mississippi Code Ann. Section 25-41-7 (4), is to be discussed by

the Board, the Board shall meet in executive session pursuant to Mississippi Code Section 25-41-7. The presiding officer shall announce to those in attendance that the Board, due to the confidential nature of material to be discussed, will meet in executive session which is closed to the public. The presiding officer shall set and announce a time specific at which point the meeting will again be opened for public attendance. The Board shall not take any official action during executive session. Minutes of executive session shall be maintained in such a manner as to not disclose the nature of confidential information discussed.

(3) Records.

(a) Where Maintained. All records of the Board shall be maintained by the State Treasurer in accordance with the requirements of applicable state law and rules and regulations to the receipt and maintenance of public records.

(b) Confidential Records. Records submitted from any source which are confidential in nature as provided in Mississippi Code Ann. Section 25-41-7 shall be maintained by the State Treasurer in such as a manner as to protect the confidentiality of those records and to prevent the unauthorized dissemination of such information.

(c) Access to Records. Persons requesting access to the records of the Board shall submit their request to the State Treasurer who, upon determining that such records are not confidential in nature, shall permit the inspection of such records in accordance with applicable laws, rules and regulations.

(4) General Delegation to the Treasurer. The Board, upon the affirmative vote of six (6) members, may delegate such of its duties to the State Treasurer as the Board deems appropriate. In exercising such delegations, the State Treasurer shall be authorized to exercise such powers as are vested in the Board which are necessary to fulfill the delegated duties and responsibilities and may assign any of such duties and responsibilities to his staff as he deems necessary and proper.

(5) Votes Required for Board Action.

(a) Admission. Pursuant to Mississippi Code Ann. Section 27-105-6, any bank shall be admitted for participation in the public funds guaranty pool if it meets the statutory requirements and the additional criteria adopted by the Board.

(b) Increase Collateral Pledge Level. The collateral pledge level of a qualified public funds depository may be increased upon six (6) affirmative votes of the Board.

(c) Bank Rating Criteria and Benchmark Levels. The Board, upon the affirmative vote of six (6) members, shall set the initial bank rating criteria and

benchmark levels as provided in Section 27-105-6 (6). Any subsequent revision to the bank rating criteria or benchmark levels may be accomplished by the affirmative vote of the six (6) members of the Board.

(d) Majority Vote for Other Action. Any action of the Board, other than that requiring a specific affirmative vote, may be accomplished by a majority vote. For purposes of this rule, a majority shall mean the affirmative vote of five (5) members of the Board.

(6) Board Officers.

(a) Selection. Officers shall be elected by majority vote of the Board. The election of officers shall occur at the first Board meeting held after June 30 of each year.

(b) Term. Officers shall serve a one (1) year term to expire upon election of a successor by the Board.

(c) Chairman. The Chairman shall preside at meetings of the Board and, together with the Board Secretary, set the agenda for each meeting. The Chairman shall have other duties and powers as may be assigned by the Board by majority vote.

(d) Vice-Chairman. The Vice-Chairman shall preside at meetings in the absence of the Chairman. The Vice-Chairman shall exercise such other duties as may be assigned by majority vote of the Board.

(e) Secretary. The Secretary shall keep an accurate record of the proceedings and actions of the Board. Together with the Chairman, the Secretary shall set the agenda for each meeting, notify Board members and the public of meetings and distribute appropriate materials to Board members. The Secretary shall also maintain information on the appointment of members to the Board and their term of office.

(7) Miscellaneous

(a) Attachment to Treasury Department. The Board, for administrative purposes, is attached to the Mississippi Treasury Department.

(b) Vacancies. Should any appointed member of the Board become unable to continue to serve on the Board for whatever reason, the member or his representative shall notify the Board of such inability to serve by submitting a letter of resignation to the Secretary. The Secretary shall notify the appropriate appointing authority of the resignation and request that another representative be appointed to serve the remainder of the member's term.

1.03 Admission to the Pool

(1) Application by Public Depository.

(a) Applications for Participation. To be considered for admission to the public funds guaranty pool, Financial Institutions maintaining a deposit-taking facility in this state whose accounts are insured by the Federal Deposit Insurance Corporation shall submit a completed Application Package to the Board. The Application Package shall include a completed application form and required supplemental information and documents.

(b) Application Form. The State Treasurer shall prescribe an appropriate form which solicits from applicants the following information:

1. the legal name of the financial institution;

2. the address of principal offices of the institution;

3. the institution's transit routing number;

4. the institution's FDIC insurance certificate number;

5. the institution's tax identification number;

6. the date the institution was chartered;

7. the date the institution commenced banking operations in Mississippi;

8. a list of the applicants three (3) senior officers, including a resume' of their experience and qualifications;

9. a list of public depositors by account held by the applicant at the end of the preceding calendar quarter;

10. for the twelve (12) months preceding the date of application, the average monthly balance of public depositors held for each month;

11. the legal name and address of the principal offices of all trustee custodians proposed to safekeep eligible collateral pledged to the pool; and

12. for the eight (8) quarters immediately preceding the date of the application, a schedule of financial information to be taken from

the institution's Report of Condition to the FDIC (call report) as determined by the Board.

(c) Supplemental Information and Documents Required. The Application Package shall include the following executed documents:

1. copies of the Collateral Security Agreement; and
2. copies of the Contingent Liability Agreement.

(d) Completion of Application Form. The application form shall be executed by the president or chief executive officer of the applicant and the individual responsible for preparing the application and contain all the prescribed information to be considered complete. The applicant may withdraw the application at any time prior to the Board taking final action on the application.

(2) Admission Criteria.

(a) Admission Criteria Generally. To be admitted to the public funds guaranty pool, each applicant must meet or exceed and maintain standards established by Miss. Code Ann. Sections 27-105-5 (2) and 27-105-6 (4) and any additional criteria established by the Board pursuant to its authority at Section 27-105-6 (6) in the area of financial standards as set forth below.

(b) Evaluation of Financial Standards. The Board may consider any one, all, or any combination of the following guidelines for evaluating financial standards. The guidelines include, but are not limited to, benchmark levels as shall be determined by the Board from time to time calculated by the following ratios taken from the schedule submitted by the applicant pursuant to rule 1.03 (1) (b) 13.

The ratios shown below are required by MS Code Sections 27-105-5 and 27-105-6. The Capital Adequacy Ratio and two of the three other ratios in the code must be met before the remaining ratios established by the Board are considered.

(1) Capital Adequacy Ratio: (MS Code 27-105-5)

Primary Capital to Assets - 6.5% or more

$$\frac{\text{Total Equity Capital}}{\text{Total Assets}}$$

(2) Asset Quality Ratio (MS Code 27-105-6)

Loans 90+ Days Past Due to Total Loans – less than 2%

Total Loans Past Due 90 Days
Total Loans

(3) Earnings Ratio (MS Code 27-105-6)

Return on Average Assets (average of most recent 4 quarters) - more than .75%

Net Income (Annualized four quarter average)
Average Assets

(4) Liquidity Ratio (MS Code 27-105-6)

Loans to Total Assets - 80% or less

Total Loans
Total Assets

The five ratios shown below were established by the Board as criteria for acceptance and continued participation in the pool. The Earnings Ratio and the Liquidity Ratio were taken from the MS Code. The Asset Quality Ratio from the MS Code was expanded to allow further analysis of the applicant's credit quality. Three out of five of these ratios must be met and maintained for acceptance and continued participation in the pool.

Asset Quality Ratios

Loan Loss Allowance to Non-Performing Loans - 100% or more

Allowance for Loan Losses
Total Loans Past Due 90 Days + Total Non-Accrual Loans

Total Non-Accrual Loans and Loans 90 + Days Past Due to Total Loans - less than 2%

Total Non-Accrual Loans + Total Loans Past Due 90 Days
Total Loans

Non-Performing Assets to Total Assets - less than 1.5%

$$\frac{\text{Total Loans Past Due 90 Days + Total Non-Accrual Loans + Other Real Estate Owned}}{\text{Total Assets}}$$

Earnings Ratio

Return on Average Assets (average of most recent 4 quarters) - more than .75%

$$\frac{\text{Net Income (Annualized four quarter average)}}{\text{Average Assets}}$$

Liquidity Ratio

Loans to Total Assets - 80% or less

$$\frac{\text{Total Loans}}{\text{Total Assets}}$$

The Board may consider such other financial information, including interim reports requested by the Board or the State Treasurer, as it deems necessary or appropriate. However an applicant must pass and maintain the ratios required in the MS Code plus three of the five ratios described above as established by the Board.

(c) Evaluation of Other Factors. The Board may further consider such other information bearing on the applicant's appropriateness for participation in the pool as in the opinion of the Board may be relevant including, but not limited to, the applicant's mode of conducting and managing its affairs, the action of its directors, the investment of the applicant's funds, the safety and prudence of the applicant's management, and any administrative proceeding or court action initiated against the applicant.

(3) Processing of Application.

(a) Processing by the State Treasurer. Upon receipt of an Application Package, the State Treasurer shall review the contents of the Application Package to ensure completeness. In the event that an Application Package is found to be incomplete, the State Treasurer shall notify the applicant of the deficiency and provide the applicant with sixty (60) calendar days in which to cure the deficiency. If the deficiency is not cured within this time, the State Treasurer shall return the Application Package to the applicant. Upon determining that

an Application Package is complete, the State Treasurer shall notify the Chairman that the application is complete and all qualifications are met.

(b) Notice to Applicant. The Secretary of the Board shall notify an applicant in writing of any action taken by the Board or by the Treasurer within ten (10) calendar days of such action.

1.04 Determination of Collateral Pledge Level

(1) Collateral Pledge Level. A qualified public depository shall pledge eligible collateral having a market value not less than the average daily balance of public deposits held by the qualified public depository multiplied by the qualified public depository's collateral pledging level. The collateral pledging level for all qualified public depositories shall be calculated quarterly according to the following schedule:

75% of average daily balance of funds on deposit in the aggregate by the State of Mississippi or any agency or department of the state or by any county, municipality or governmental unit in excess of the Federal Deposit Insurance Corporation insurance limits.

(2) Minimum Pledged Collateral. Notwithstanding the average daily balance, a qualified public depository shall maintain a minimum of pledged eligible collateral whose market value is not less than one hundred thousand dollars ($100,000).

(3) Temporary Increases in Collateral. A qualified public depository which accepts any public deposit that causes its public deposits to exceed its average daily balance by twenty-five percent (25%) shall be required to pledge additional eligible collateral with the Treasurer within two (2) business days of the deposit. The additional eligible collateral shall be equal to the difference between the actual public deposits and the average daily balance times the applicable collateral pledge level, including any limitations thereto.

The additional eligible collateral shall not be required if deposit(s) causing the increase are withdrawn within the two (2) business days and prior to pledging of the additional collateral. Additional pledged collateral shall be included in required collateral and held by the Treasurer until the next regular monthly report is filed.

1.05 Suspension from Pool

(1) Notice of Suspension to Qualified Public Depository. The Board may suspend or disqualify any qualified public depository for violation of any of the provisions of the Act or these rules. In the event that the State Treasurer becomes aware that a pool member no longer meets the requirements for continued participation in the pool, the State Treasurer has the authority to require the member financial institution to pledge collateral at a level of 105% of the outstanding balances of public funds on deposit ,

less the amount insured by the Federal Deposit Insurance Corporation. The qualified public depository shall be notified of the effective date of the suspension within ten (10) business days of the action by the State Treasurer or the Board and not less than thirty (30) days before the effective date.

(2) Effect of Suspension. A qualified public depository which is suspended from participation in the pool shall immediately collateralize all existing public funds and deposits secured by the pool at a level of 105% of the outstanding balances of such funds less the amount of funds insured by the Federal Deposit Insurance Corporation.

1.06 Reporting by Qualified Public Depository

(1) Quarterly Reports

(a) Report Contents. Every qualified public depository shall file with the Treasurer on a quarterly basis reports as required by Section 27-105-6 (7). The report shall be filed at the same time the quarterly Report of Condition is filed with the Federal Deposit Insurance Corporation, but not later than the date that the report is due to be filed with the Federal Deposit Insurance Corporation.

(b) Amended Reports. Every qualified public depository shall file with the Treasurer an amended report at any time the Report of Condition filed with the Federal Deposit Insurance Corporation is amended. Such amended report shall be filed at the same time it is filed with the Federal Deposit Insurance Corporation.

(2) Change of Name, Address, Charter of the Institution or Ownership

(a) Report Contents. Every qualified public depository shall file with the Treasurer, on a form prescribed by him, a report of any change of name, address, charter or ownership of the institution.

(b) When Due. The report shall be filed within three (3) business days of such change.

(3) Confidential Information. It shall be the responsibility of each qualified public depository from which information or reports is required to inform the Treasurer of information that is confidential. The Treasurer shall design report forms so that any information which is confidential may be placed on separate sheets; only information which is confidential by State or Federal law may be so designated.

1.07 Reports and Procedures for Trustee Custodians

(1) Appointment of Trustee Custodians. Upon being designated as a qualified public depository, the qualified public depository shall appoint one or more trustee custodians for the deposit of eligible collateral by the qualified public depository. The appointment shall be made on a form provided by the Treasurer and shall be delivered to the Treasurer and accepted by him prior to the deposit of any collateral with the trustee custodian.

(2) Notification. The Treasurer shall notify the qualified public depository of the acceptance or denial of an appointment of a trustee custodian.

(3) Report Contents. Every trustee custodian shall submit a quarterly report to the Treasurer providing a description of eligible collateral securities deposited by the qualified public depository, including the par value of the eligible collateral, as well as other information requested by the Treasurer.

(4) When Due. The trustee custodian shall file the report with the Treasurer on a schedule as established by the Treasurer. The report shall include information as of the end of the scheduled quarter.

(5) Amended Reports. A trustee custodian shall submit to the Treasurer an amended report at any time that it determines the information on any prior report was incomplete or inaccurate. The amended report shall be filed not later than ten (10) business days after it determines that any prior report was inaccurate or incomplete.

1.08 Withdrawal from Collateral Pool Participation

(1) Voluntary Withdrawal

(a) Voluntary Withdrawal Generally. A qualified public depository may withdraw from participation in the collateral pool by giving written notice to the State Treasurer, and to all public depositors having deposits at the qualified public depository. The notice shall provide an effective date of withdrawal which shall not be less than one hundred eight (180) calendar days after the date the notice is received by the Treasurer.

(b) Contingent Liability of Withdrawing Qualified Public Depository. A qualified public depository shall be contingently liable for any loss to the pool as provided in the contingent liability agreement for a period of six (6) months following the effective date of withdrawal. To assure that an institution can meet its contingent liability, an institution shall continue to maintain pledged collateral in an amount of 105% of the outstanding balances of public funds held less the amount of funds insured by the Federal Deposit Insurance Corporation.

(2) Mandatory Withdrawal from Collateral Pool

(a) Mandatory Withdrawal Generally. A qualified public depository shall be required to withdraw upon failure to meet the conditions of membership.

(b) Contingent Liability of Withdrawing Qualified Public Depository. A qualified public depository shall be contingently liable for any loss to the pool as provided in the contingent liability agreement for a period of twelve (12) months following the effective date of withdrawal. To assure that an institution can meet its contingent liability, an institution shall continue to maintain pledged collateral in an amount of 105% of the outstanding balances of public funds held less the amount of funds insured by the Federal Deposit Insurance Corporation.

1.09 Payment of Losses

(1) Priority for Multiple Losses. In the event a default or insolvency occurs to more than one qualified public depository, claims of public depositors shall have priority based on the date of the default or insolvency. Claims arising from a default or insolvency occurring earliest in time shall have priority over claims arising subsequently.

(2) Payment. The Treasurer shall establish the priority of claims arising from multiple defaults or insolvencies and pay public depositors based on the priority established.