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§5–511.

(a) (1) In this section and in § 5–509 of this subtitle the following words have the meanings indicated.

(2) "Acceptable collateral" means:

(i) 1. as to securities lending transactions, and for the purpose of calculating counterparty exposure amount, cash, cash equivalents, letters of credit, and direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or an agency of the United States, or by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

2. as to lending foreign securities, sovereign debt rated I by the Securities Valuation Office of the National Association of Insurance Commissioners;

(ii) as to repurchase transactions, cash, cash equivalents, and direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or an agency of the United States, or by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(iii) as to reverse repurchase transactions, cash and cash equivalents.

(3) (i) "Asset–backed security" means a security or other instrument, excluding a mutual fund, evidencing an interest in, or the right to receive payments from, or payable from distributions on, an asset, a pool of assets, or specifically divisible cash flows that are legally transferred to a trust or another special purpose bankruptcy–remote business entity, on the following conditions:

1. the trust or other business entity is established solely for the purpose of acquiring specific types of assets or rights to cash flows, issuing securities and other instruments representing an interest in or right to receive cash flows from those assets or rights, and engaging in activities required to service the assets or rights and any credit enhancement or support features held by the trust or other business entity; and

2. the assets of the trust or other business entity consist solely of interest bearing obligations or other contractual obligations representing the right to receive payment from the cash flows from the assets or rights.

(ii) However, the existence of credit enhancements, such as letters of credit or guarantees, or support features such as swap agreements, do not cause a security or other instrument to be ineligible as an asset–backed security.

(4) "Business entity" includes a sole proprietorship, corporation, association, general or limited partnership, limited liability company, joint–stock company, joint venture, trust, or any other form of business organization, whether for profit or not for profit.

(5) (i) "Cash equivalent" means a highly liquid investment or security with an original term to maturity of 90 days or less that is:

1. readily convertible to a known amount of cash without penalty;

2. so near maturity that it presents an insignificant risk of change in value; and

3. rated:

A. "P–1" by Moody's Investors Services, Inc.;

B. "A–1" by Standard and Poor's Division of the McGraw Hill Companies, Inc.; or

C. equivalently by a nationally recognized statistical rating organization recognized by the Securities Valuation Office of the National Association of Insurance Commissioners.

(ii) "Cash equivalent" includes a government money market mutual fund and a Class One Money Market Mutual Fund.

(6) (i) "Counterparty exposure amount" means:

1. for an over–the–counter derivative instrument not entered into pursuant to a written master agreement that provides for netting of payments owed by the respective parties:

A. the market value of the over–the–counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer; or

B. zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurer;

2. for over–the–counter derivative instruments entered into pursuant to a written master agreement that provides for netting of payments owed by the respective parties, and the domiciliary jurisdiction of the counterparty is either within the United States or, if not within the United States, is within a foreign (not United States) jurisdiction listed in the purposes and procedures manual of the Securities Valuation Office as eligible for netting, the greater of zero or the net sum payable to the insurer in connection with all derivative instruments subject to

the written master agreement upon their liquidation in the event of default by the counterparty pursuant to the master agreement (assuming no conditions precedent to the obligations of the counterparty to make such a payment and assuming no setoff of amounts payable pursuant to any other instrument or agreement).

(ii) For purposes of this paragraph, market value or the net sum payable, as the case may be, shall be determined at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or a custodian on the insurer's behalf.

(7) (i) "Derivative instrument" means an agreement, option, instrument, or a series or combination thereof:

1. to make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or

2. that has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests.

(ii) "Derivative instrument" includes options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, and any other agreements, options, or instruments substantially similar thereto or any series or combination thereof and any agreements, options, or instruments permitted under regulations adopted under this section.

(iii) "Derivative instrument" does not include collateralized mortgage obligations, other asset–backed securities, principal–protected structured securities, floating rate securities, or instruments that an insurer is otherwise permitted to invest in or receive under this article other than under this subsection, and any debt obligations of the insurer.

(8) "Derivative transaction" means a transaction involving the use of one or more derivative instruments.

(9) "Dollar roll transaction" means two simultaneous transactions with different settlement dates no more than 96 days apart, so that in the transaction with the earlier settlement date, an insurer sells to a business entity, and in the other transaction the insurer is obligated to purchase from the same business entity, substantially similar securities of the following types:

(i) asset–backed securities issued, assumed or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation or their respective successors; and

(ii) other asset–backed securities referred to in Section 106 of Title I

of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C., § 77r–1), as amended.

(10) "Domestic jurisdiction" means the United States, Canada, a state, a province of Canada, or a political subdivision of the United States, Canada, a state, or a province of Canada.

(11) "Foreign currency" means a currency other than that of a domestic jurisdiction.

(12) (i) "Foreign investment" means an investment in a foreign jurisdiction, or an investment in a person, real estate, or asset domiciled in a foreign jurisdiction, that is substantially of the same type as those eligible for investment under this section.

(ii) An investment may not be deemed to be foreign if the issuing person, qualified primary credit source, or qualified guarantor is a domestic jurisdiction or a person domiciled in a domestic jurisdiction, unless:

1. the issuing person is a shell business entity; and

2. the investment is not assumed, accepted, guaranteed, or insured or otherwise backed by a domestic jurisdiction or a person, that is not a shell business entity, domiciled in a domestic jurisdiction.

(13) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

(14) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce:

(i) the risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring; or

(ii) the currency exchange rate risk or the degree of exposure as to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring.

(15) "Lower grade investment" means an investment obligation that is rated four, five, or six by the Securities Valuation Office of the National Association of Insurance Commissioners.

(16) "Medium grade investment" means an investment obligation that is rated three by the Securities Valuation Office of the National Association of Insurance Commissioners.

(17) "Qualified guarantor" means a guarantor against which an insurer has

a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(18) "Qualified primary credit source" means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(19) (i) "Replication transaction" means a derivative transaction that is intended to replicate the performance of one or more assets that a life insurer is authorized to acquire under this section.

(ii) "Replication transaction" does not include a derivative transaction entered into as a hedging transaction.

(20) "Repurchase transaction" means a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the business entity at a specified price, either within a specified period of time or on demand.

(21) "Reverse repurchase transaction" means a transaction in which an insurer sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or on demand.

(22) "Securities lending transaction" means a transaction in which securities are loaned by an insurer to a business entity that is obligated to return the loaned securities or equivalent securities to the insurer, either within a specified period of time or on demand.

(23) "Shell business entity" means a business entity having no economic substance, except as a vehicle for owning interests in assets issued, owned, or previously owned by a person domiciled in a foreign jurisdiction.

(a–1) Each life insurer shall have and continually maintain an amount equal to its entire reserves, as required by this article, in any combination of the types of assets authorized by subsections (c) through (p) of this section subject to the limit, if any, set for each type or class of investment.

(b) (1) For purposes of this section, the entire reserves of a life insurer is the sum of the amounts listed in paragraph (2) of this subsection less the amount of net uncollected and deferred premiums.

(2) The sum to be used in paragraph (1) of this subsection consists of:

(i) the net present value of all outstanding policies in force, less reinsurance;

(ii) reserves for accidental death benefits and total and permanent disability benefits, less reinsurance;

(iii) the present value of supplementary contracts, including dividends left with the life insurer to accumulate at interest;

(iv) liabilities on canceled policies that are not included in net reserve and on which a surrender value may be demanded, and outstanding policy claims and losses; and

(v) any additional reserves that the Commissioner reasonably requires for the life insurance.

(c) The reserve investments of a life insurer may include:

(1) cash or deposits in checking or savings accounts, under certificates of deposit, or in any other form in a national or State bank or trust company; or

(2) shares or deposits in a savings and loan association or building and loan association to the extent that the investment or account is insured by the Federal Deposit Insurance Corporation.

(d) (1) The reserve investments of a life insurer may include:

(i) interest bearing bonds, notes, certificates of indebtedness, bills, or other direct interest bearing obligations of the United States or Canada or other interest bearing obligations fully guaranteed both as to principal and interest by the United States or Canada;

(ii) interest bearing bonds of a state, a province of Canada, a county or incorporated city of a state, or a municipality of Canada;

(iii) interest bearing bonds of a commission, instrumentality, authority, or political subdivision with legal authority to issue interest bearing bonds, of the United States, Canada, a state, a province of Canada, a county or incorporated city of a state, or a municipality of Canada;

(iv) interest bearing bonds, notes, or other interest bearing obligations of a corporation incorporated under the laws of the United States, Canada, a state, or a province of Canada;

(v) subject to paragraph (2) of this subsection, obligations of the African Development Bank, Asian Development Bank, Inter–American Development Bank, International Bank for Reconstruction and Development, or International Finance Corporation;

(vi) asset backed securities rated investment grade by at least one of the nationally recognized statistical rating organizations, and which either trade

on a regulated nationally recognized exchange or are traded by a minimum of two registered broker–dealers. To the extent necessary to satisfy the reserve requirements of this subtitle, a life insurer may not have more than 3% of its total admitted assets in the asset backed securities of any one issuer; and

(vii) interest bearing bonds, notes, or other interest bearing obligations of real estate investment trusts rated investment grade by at least one of the nationally recognized statistical rating organizations, and which either trade on a regulated nationally recognized exchange or are traded by a minimum of two registered broker–dealers. To the extent necessary to satisfy the reserve requirements of this subtitle, a life insurer may not have more than 3% of its total admitted assets in the bonds, notes, or other interest bearing obligations of any one real estate investment trust.

(2) A life insurer may not invest more than 5% of its total admitted assets in obligations of the African Development Bank, Asian Development Bank, Inter–American Development Bank, International Bank for Reconstruction and Development, or International Finance Corporation.

(3) A life insurer may not acquire directly or indirectly through an investment subsidiary an investment under subsection (d), (e), or (f) of this section or § 5–509 of this subtitle, or counterparty exposure under subsection (o) of this section, if as a result of and after giving effect to the investment:

(i) the aggregate amount of medium grade investments and lower grade investments then held by the life insurer would exceed 20% of the life insurer's admitted assets;

(ii) the aggregate amount of lower grade investments then held by the life insurer would exceed 10% of the life insurer's admitted assets;

(iii) the aggregate amount of investments rated five or six by the Securities Valuation Office of the National Association of Insurance Commissioners then held by the life insurer would exceed 3% of the life insurer's admitted assets;

(iv) the aggregate amount of investments rated six by the Securities Valuation Office of the National Association of Insurance Commissioners then held by the life insurer would exceed 1% of the life insurer's admitted assets;

(v) the aggregate amount of medium grade investments and lower grade investments then held by the life insurer that receive as cash income less than the equivalent yield for United States Department of the Treasury issues with a comparative average life, would exceed 1% of the life insurer's admitted assets;

(vi) the following would exceed 1% of the life insurer's admitted assets:

1. the aggregate amount of medium grade investments and

lower grade investments issued, assumed, guaranteed, accepted, or insured by any one person; or

2. any asset–backed securities secured by or evidencing an interest in a single asset or pool of assets; or

(vii) the following would exceed one–half of one percent of the life insurer's admitted assets:

1. the aggregate amount of lower grade investments issued, assumed, guaranteed, accepted, or insured by any one person; or

2. any asset–backed securities secured by or evidencing an interest in a single asset or pool of assets.

(e) The reserve investments of a life insurer may include equipment trust obligations or certificates or other secured instruments that evidence:

(1) an interest in transportation or other equipment located wholly or partly within the United States or Canada; and

(2) a right to receive determined parts of rental, purchases, or other fixed obligatory payments received for the use or purchase of the transportation or other equipment.

(f) (1) Subject to paragraph (2) of this subsection, the reserve investments of a life insurer may include dividend–paying stock of a corporation created or existing under the laws of the United States, Canada, a state, or a province of Canada.

(2) To the extent necessary to satisfy the reserve requirements of this subtitle, a life insurer may not have more than:

(i) 10% of its total admitted assets in preferred stock;

(ii) 10% of its total admitted assets in common stock; or

(iii) 5% of its total admitted assets in the stock of any one corporation.

(g) (1) The reserve investments of a life insurer may include loans secured by first mortgages, or deeds of trust, on unencumbered fee–simple or improved leasehold real estate in a state or a province of Canada in an amount not exceeding 85% of the fair market value of the real estate.

(2) A life insurer may not include an amount from an investment made under paragraph (1) of this subsection that exceeds 75% of the fair market value of the real estate in reserve and capital stock investments under this subtitle unless:

(i) the real estate:

1. is primarily improved by a residence; or

2. is farm property used for farming purposes and the loan amount on any one farm property does not exceed $500,000; and

(ii) the loan on the real estate provides for the amortization of principal over a period of not more than 30 years, with payments to be made at least annually.

(3) (i) Notwithstanding paragraph (1) of this subsection, but subject to subparagraph (ii) of this paragraph, a life insurer may include an amount from an investment made under paragraph (1) of this subsection not exceeding 95% of the fair market value of the real estate if:

1. the real estate is improved by a dwelling primarily intended for occupancy by not more than four families; and

2. a mortgage insurance company authorized to do business in this State and not affiliated with the entity making the loan guarantees or insures that part of the loan in excess of 85% of the fair market value of the real estate.

(ii) A life insurer may not place more than 3% of its admitted assets in loans in which the amount of the loan exceeds 90% of the fair market value of the security of the loan.

(4) (i) If a loan is made on real estate improved by a building, the improvements must be insured against loss by fire.

(ii) The fire insurance policy required by subparagraph (i) of this paragraph shall:

1. contain the New York or Massachusetts standard mortgage clause or its equivalent; and

2. be delivered to the mortgagee as additional security for the loan.

(iii) A policy that insures against loss by fire and other coverages satisfies the requirements of this subsection.

(5) The requirements of this section and any other law of the State that require security on a loan, prescribe the nature, amount, or form of security on a loan, or limit the interest rate on a loan do not apply if the reserve investments consist of bonds, notes, or other evidences of indebtedness secured by mortgages or deeds of trust that are guaranteed or insured by an instrumentality of the United States under the National Housing Act, Servicemen's Readjustment Act of 1944, or Bankhead–Jones Farm Tenant Act.

(h) (1) Subject to paragraphs (2) and (3) of this subsection, the reserve investments of a life insurer may include ground rents in any state.

(2) For unexpired redeemable ground rents, any premiums paid must be:

(i) amortized over the period between the date of acquisition and the earliest redemption date; or

(ii) charged off before the redemption date.

(3) For expired redeemable ground rents, any premiums paid must be charged off when acquired.

(4) A life insurer shall carry redeemable ground rents purchased at a discount at an amount not greater than the cost of acquisition.

(i) (1) The reserve investments of a life insurer may include collateral loans secured by pledge of any security listed in subsections (c) through (h) of this section if the current market value of the pledged security at all times during the term of the loan is at least 10% more than the unpaid balance of the loan amount.

(2) Each collateral loan is subject to the power of the life insurer to terminate it if the pledged security depreciates below 10% of the unpaid balance of the loan amount.

(j) (1) For purposes of this subsection, real estate sold under a contract of sale in which title is retained in the life insurer shall be classified as real estate.

(2) Subject to paragraph (3) of this subsection, the reserve investments of a life insurer may include:

(i) real estate for the office and business purposes only of the life insurer, except as authorized by subsections (g) and (h) of this section; or

(ii) property primarily for the use of employees or customers of the life insurer for parking with or without charge.

(3) The equity value of all real estate held under paragraph (2) of this subsection may not exceed 20% of the life insurer's total admitted assets.

(4) A life insurer may purchase and hold real estate under a foreclosure of its own mortgages or a deed in lieu of mortgage foreclosure for not more than 5 years.

(5) Subject to paragraph (6) of this subsection, the Commissioner may grant extensions for periods not exceeding 5 years each of the period within which real estate may be held under paragraph (4) of this subsection, if the Commissioner considers the extensions necessary to serve the best interest of the life insurer and its policyholders.

(6) Before the Commissioner may refuse to grant extensions under paragraph (5) of this subsection, an appraisal of the real estate shall be obtained. If the appraisal shows that the appraised value of the real estate equals or exceeds the book value of the real estate, the Commissioner shall grant extensions for periods not exceeding 5 years each.

(7) With the written approval of the Commissioner, a life insurer may acquire property as partial payment of the consideration for the sale of real estate owned by the life insurer if the transaction causes a net reduction in the investment of the life insurer in real estate.

(8) With the approval of the Commissioner, a life insurer may acquire other real estate if necessary or convenient to enhance the market value of real estate previously acquired or held by the life insurer in accordance with this subsection.

(k) The reserve investments of a life insurer may include interest, rents, or other fixed income due and accrued on:

(1) an investment authorized under subsections (c) through (e) and (g) through (j) of this section; or

(2) policy loans of the life insurer.

(l) (1) The real estate authorized by this subsection to be held as a reserve investment by a life insurer does not include property to be used primarily for mining, recreational, amusement, hotel, or club purposes.

(2) Subject to paragraphs (3) through (6) of this subsection, the reserve investments of a life insurer may include fee–simple or improved leasehold real estate or interests in limited partnerships formed for the development or ownership of fee–simple or improved leasehold real estate, if acquired:

(i) as an investment for the production of income; or

(ii) to be improved or developed as an investment for the production of income.

(3) The cost of each parcel of fee–simple or improved leasehold real estate or each limited partnership interest acquired under this subsection, including the cost to the life insurer of improving or developing the real estate, may not exceed:

(i) 15% of the admitted assets of the life insurer, when added to the book value of all other fee–simple or improved leasehold real estate or limited partnership interests then held by the life insurer under this subsection; and

(ii) 20% of the total admitted assets of the life insurer, when added to the value of all real estate however acquired or held for investment by the life insurer, including home office and branch office properties.

(4) The cost of each parcel of fee–simple or improved leasehold real estate or each limited partnership interest acquired under this section, including the cost to the life insurer of improving or developing the real estate, may not exceed 1% of the admitted assets of the life insurer.

(5) (i) Except as otherwise required by the Commissioner, each parcel of fee–simple or improved leasehold real estate held by a life insurer directly or through a limited partnership under this subsection shall be valued on the books of the life insurer as of December 31 of each year at an amount that includes a write–down of the cost of the property, excluding the land cost, but including all improvements or development costs, at a rate that averages not less than 2% per year of the cost of the property for each year or part of a year that the property is held.

(ii) The admitted values of each parcel of fee–simple or improved leasehold real estate held under this subsection may not exceed the depreciated value of the property.

(6) A life insurer may not count towards its cash reserves any more than the lesser of:

(i) 75% of the investment value of any limited partnership interest; and

(ii) 75% of the current book value of that limited partnership interest.

(7) (i) Interests in limited partnerships under this subsection shall be valued at the actual cost of the investment adjusted by any additional capital contributions or capital withdrawals.

(ii) The valuation of a limited partnership interest may not exceed the life insurer's proportionate share of the equity of the real estate asset owned by the limited partnership.

(m) The reserve investments of a life insurer may include those investments permitted under § 5–509 of this subtitle.

(n) (1) The reserve investments of a life insurer may include securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities, subject to the requirements of paragraphs (2) through (9) of this subsection.

(2) (i) The insurer's board of directors shall adopt a written plan that specifies guidelines and objectives to be followed, such as:

1. a description of how cash received will be invested or used for general corporate purposes of the insurer;

2. 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

3. the extent to which the insurer may engage in these transactions.

(ii) The insurer shall file with the Commissioner the written plan including all changes and amendments to the written plan for use in the State on or before the date the plan becomes effective.

(3) (i) The insurer shall enter into a written agreement for all transactions authorized under this subsection other than dollar roll transactions.

(ii) The written agreement shall require that each transaction terminate no more than 1 year from its inception or on the earlier demand of the insurer.

(iii) The agreement shall be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity, and if the agreement:

1. requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

2. prohibits securities lending transactions under the agreement with the agent or its affiliates.

(4) (i) Cash received in a transaction under this subsection shall be invested in accordance with this subtitle and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes.

(ii) 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 subsection, 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:

1. possession of the acceptable collateral;

2. a perfected security interest in the acceptable collateral; or

3. in the case of a jurisdiction outside the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(5) (i) The limitations of § 5–507 of this subtitle do not apply to the business entity counterparty exposure created by transactions under this subsection.

(ii) For purposes of calculations made to determine compliance with this subsection, 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.

(iii) An insurer may not enter into a transaction under this subsection if, as a result of and after giving effect to the transaction:

1. A. the aggregate amount of securities then loaned, sold to, or purchased from any one business entity counterparty under this subsection would exceed 5% of its admitted assets; and

B. in calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may 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 subsection would exceed 40% of its admitted assets.

(6) (i) In a securities lending transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to 102% of the market value of the securities loaned by the insurer in the transaction as of that date.

(ii) 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 102% of the market value of the loaned securities.

(7) (i) 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 95% of the market value of the securities transferred by the insurer in the transaction as of that date.

(ii) If at any time the market value of the acceptable collateral is less than 95% of the market value of the securities so transferred, 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 95% of the market value of the transferred securities.

(8) 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.

(9) (i) In a repurchase transaction, the insurer shall receive as

acceptable collateral transferred securities having a market value at least equal to 102% of the purchase price paid by the insurer for the securities.

(ii) If at any time the market value of the acceptable collateral is less than 100% of the purchase price paid by the insurer, the business entity counterparty shall be 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 102% of the purchase price.

(iii) 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.

(o) (1) The reserve investments of a life insurer may include derivative transactions under this subsection, whether entered into directly or indirectly through an investment subsidiary, under the conditions of paragraphs (2) through (6) of this subsection.

(2) (i) An insurer may use derivative instruments under this subsection to engage in hedging transactions.

(ii) Prior to entering into any derivative transaction, the board of directors of the insurer shall approve a derivative use plan that:

1. describes investment objectives and risk constraints, such as counterparty exposure amounts and collateral arrangements supporting derivative transactions;

2. defines permissible transactions identifying the risks to be hedged, the assets or liabilities being replicated; and

3. requires compliance with internal control procedures that demonstrate the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses.

(iii) Whenever the derivative transactions entered into under this subsection are not in compliance with this subsection or, if continued, may now or subsequently, create a hazardous financial condition to the insurer that affects its policyholders, creditors, or the general public, the Commissioner may, after notice and an opportunity for a hearing, order the insurer to take any action as may be reasonably necessary to:

1. rectify a hazardous financial condition; or

2. prevent an impending hazardous financial condition from occurring.

(3) An insurer may enter into hedging transactions under this subsection if, as a result of and after giving effect to the transaction:

(i) the aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed 7.5% of its admitted assets;

(ii) the aggregate statement value of options, caps, and floors written in hedging transactions does not exceed 3% of its admitted assets; and

(iii) the aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed 6.5% of its admitted assets.

(4) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of § 5–507 of this subtitle.

(5) Each derivative instrument shall be:

(i) traded on a securities exchange;

(ii) entered into with, or guaranteed by, a business entity;

(iii) issued or written by or entered into with the issuer of the underlying interest on which the derivative instrument is based; or

(iv) in the case of futures, traded through a broker that is registered as a futures commission merchant under the Commodity Exchange Act or that has received exemptive relief from registration under Rule 30.10 adopted under the Commodity Exchange Act.

(6) Any asset being replicated is subject to all of the provisions and limitations on the investment as if the replication transaction constituted a direct investment by the life insurer in the replicated asset.

(p) (1) The reserve investments of a life insurer may include money market mutual funds as defined by 17 C.F.R. 270.2A–7 under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) that may be either of the following:

(i) Government Money Market Mutual Fund, which is a money market mutual fund that:

1. invests only in obligations issued, guaranteed, or insured by the federal government of the United States or collateralized repurchase agreements composed of these obligations; and

2. qualifies for investment without a reserve under the purposes and procedures of the Securities Valuation Office or any successor publication; or

(ii) Class One Money Market Mutual Fund, which is a money market mutual fund that qualifies for investment using the bond class one reserve factor under the purposes and procedures of the Securities Valuation Office or any successor publication.

(2) For purposes of determining whether a money market mutual fund is to be classified as an equity interest or within this subsection, money market funds qualifying for listing within this subsection must conform to the purposes and procedures of the Securities Valuation Office or any successor publication.

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