



# ILLINOIS ASSOCIATION OF MUTUAL INSURANCE COMPANIES

Recently there has been some confusion regarding the Farm Mutual Act's investment policy and the custodial agreements many of the Mutuals utilize. Recognizing that most of us are not financial experts, our goal is to educate you so that you and your investment committees can make informed decisions when investing your Mutual's surplus. IAMIC's mission is to assist the Mutuals with all state requirements and felt it was imperative to clarify this issue.

I met with Tom Lurkins, Supervisor of the Illinois Department of Insurance Property and Casualty Financial Analysis Unit to obtain and confirm an accurate interpretation of the Act. Per Mr. Lurkins and in accordance with the Farm Mutual Act, all companies must invest their assets in one or both of the following methods for the assets to be considered admitted assets:

1) Investments must be registered in the name of the Mutual and under its direct control – for example this is how most of the Mutuals hold their local bank CD investments.

OR

2) Investments must be held in a custodial account with a bank or trust company qualified to administer trusts in Illinois under the Corporate Fiduciary Act. The bank or trust company must have an office in Illinois. It is these types of accounts which cause concern to the Department of Insurance.

It should be noted that most if not all of the custodial agreements the Farm Mutuals are currently utilizing probably meet the requirements of the State. It is the implementation of the custodial agreements that seems to cause confusion for many of the Mutuals.

In order for your custodial agreement and investment program to be in compliance, the bank or trust company MUST hold the assets within an account in the bank or trust company name for the benefit of the Mutual. For example: XYZ Bank or Trust Company, FBO ABC Mutual.

Any investments held in a brokerage account in the broker dealer's name on behalf of the Mutual violate the Farm Mutual Act. Many of the Mutual's unknowingly hold their assets in this fashion. For example they may have a custodial agreement signed by XYZ Bank but the assets are actually held at a broker dealer. Even though the title of the account statements received from the brokerage may state XYZ Bank, FBO ABC Mutual, these are NOT custodial accounts. Again, accounts held this way violate the Farm Mutual Act and per Tom Lurkins will not be tolerated. Even if your Mutual has previously passed a department audit please be aware that the Department of Insurance will be looking closely at your investment program.

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When considering a bank or trust company to orchestrate your custodial agreement, you need to verify:

- 1) That the assets will indeed be titled and held in the Bank or Trust Company name FBO the Mutual.
- 2) That the Bank or Trust Company has an actual investment platform thru which approved securities will be purchased and that they are NOT purchasing and holding securities at a broker dealer away from the Bank or Trust Company (This is what is known as a "Pseudo" account and is not permitted).
- 3) That the Bank or Trust Company has a properly drafted custodial agreement that utilizes the Farm Mutual Act as its governing instrument.
- 4) That the Bank or Trust Company fully understands and comprehends the investment limitations and requirements of the Farm Mutual Act Section 12, subsections 1-10 in total.
- 5) That the Bank or Trust Company has a physical office located in Illinois.

While this is a confusing issue with many different facets we hope that this communication has helped to clarify the requirements of the Farm Mutual Act as it pertains to your investment program. Should you have questions or need further clarification please do not hesitate to contact our office.

If I can be of any assistance, please call.

Best Regards,

*Jackie*

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