Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE REPRESENTATIVES AND BUSINESS ENTITIES
PART 3113 PREMIUM FUND TRUST ACCOUNT
SECTION 3113.40 PREMIUM FUND TRUST ACCOUNT

Section 3113.40 Premium Fund Trust Account

a) All licensees required to maintain a PFTA, pursuant to subsection (c), shall establish and maintain a PFTA in a financial institution. All resident and quasi-resident licensees required to maintain a PFTA pursuant to this Section shall maintain such PFTA with one or more financial institutions located within the State of Illinois and subject to the jurisdiction of the Illinois courts. Licensees are not required to maintain a separate PFTA for each insurer unless required by an insurer(s).

b) All licensees required to maintain a PFTA, pursuant to subsection (c), shall certify at each license renewal or reinstatement date that premiums are held in a PFTA. The account must be designated as a Premium Fund Trust Account on the bank records and those words shall be displayed on the face of the checks of that account.

c) A PFTA must be established and maintained if a licensee:

1) Holds any premiums for 15 days or more before remitting to an insurer or other licensee.

2) Deposits any collected premiums into a financial institution account or other account or uses the premiums, even though the premiums are remitted within 15 days.

d) The absence of a PFTA does not relieve the licensee of the obligation to hold the premiums in a fiduciary capacity, and the premiums shall not be used for purposes other than those authorized by this Part.

e) All licensees who maintain or are required to maintain a PFTA must deposit all premiums received into the PFTA.

f) Non-premium monies received by the licensee for soliciting, negotiating, effecting, procuring, renewing, continuing or binding policies of insurance may be deposited into the PFTA. Examples of non-premium monies are service fees, policy fees, late charges, inspection fees and surplus lines premium taxes.

g) All monies deposited into the PFTA are considered to be fiduciary funds until lawfully withdrawn.

h) The following disbursements may be lawfully withdrawn from the PFTA:

1) Net or gross premium remittances due other licensees or insurers. Claims payments or reinsurance premiums when offset at the direction of the insurer may be transferred to another account;

2) Return premiums due insureds;

3) Commissions due the licensee, net of any financial institution fees or service charges, or commissions due another licensee only when the commission withdrawal is matched and identified with premiums previously deposited into the PFTA;

4) Non-premium monies when matched and identified with prior non-premium PFTA deposits;

5) Interest or other revenue which the licensee is authorized to retain.

6) Withdrawals pursuant to subsections (h)(3), (4) and (5) must be made payable to the licensee or another licensee.

i) The PFTA shall not be used as a general operating account or claim payment account.

j) The PFTA balance in the financial institution shall at all times be the amount deposited less lawful withdrawals. If the balance in the financial institution is less than the amount deposited less lawful withdrawals, the licensee shall be deemed to have misappropriated fiduciary funds and to have acted in a financially irresponsible manner.

k) All licensees may place PFTA funds in interest bearing or income producing assets and retain the interest or income thereon, provided the licensee obtains the prior written authorization of the insurer on whose behalf the funds are to be held. The written authorization from the insurer shall be on a form the same as Exhibit A or other written form signed and dated by the licensee and the insurer. Employing the use of specialized techniques or strategies which incur additional risks to generate higher returns or to extend maturities is not permitted. Such prohibited techniques include but are not limited to the use of financial futures, options, or other derivatives, swaps, synthetic assets, margin purchases, short sales, pledging or other encumbrance of PFTA assets or balances, and when issued trading. In addition to savings and checking accounts in a financial institution, a licensee may invest in the following assets:

1) Direct obligations of the United States of America or U.S. Government agency securities with maturities of not more than one year.

2) Certificates of deposit, with a maturity of not more than one year, issued by financial institutions which are members of the FDIC or the FSLIC.

3) Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System provided that:

A) the value of the repurchase agreement is collateralized with direct obligations of the United States of America or U.S. Government agency securities or other assets that are allowable investments for PFTA funds; and

B) the collateral has a market value at the time the repurchase agreement is entered into at least equal to the value of the repurchase agreement; and

C) the repurchase agreement does not exceed 30 days.

4) Commercial paper, provided the commercial paper is rated at least P-1 by Moody's Investors Service, Inc. and at least A-1 by Standard & Poor's Corporation.

5) Obligations issued by states and possessions of the United States, including Puerto Rico and the District of Columbia, and their political subdivisions, agencies and instrumentalities, or multi-state agencies or authorities, including general obligation bonds, revenue bonds and short term notes, with maturities of not more than one year, and rated at least Aa1, MIG-1/VMIG-1 or Prime-1 by Moody's Investor Service, Inc. or AA, SP-1 or A-1 by Standard and Poor's Corporation. Such obligations must be payable or guaranteed from taxes or revenues of such entities if such entity has not been in default in the payment of principal or interest on any of its direct or guaranteed obligations in the last 5 years.

6) Money Market Mutual Funds registered with the U.S. Securities and Exchange Commission under Rule 2a-7 of The Investment Company Act of 1940, which are rated Aaa by Moody's Investors Service, Inc. or AAAm by Standard& Poor's Rating Services.

l) Each investment transaction authorized pursuant to subsection (k) shall be made in the name of the licensee's PFTA. The licensee shall maintain evidence of any such investments. Each investment transaction shall flow through the licensee's PFTA.

(Source: Amended at 28 Ill. Reg. 7303, effective May 10, 2004)