



**OFFICE OF THE COMMISSION AUDITOR  
MIAMI-DADE BOARD OF COUNTY COMMISSIONERS**

**COMMISSION AUDITOR'S  
INFORMATIONAL RESEARCH**

**TRANSPORTATION AND FINANCE COMMITTEE  
MEETING**

**October 15, 2020**

**2:00 P.M.**

**Virtual Meeting**

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Commission Auditor

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**TAF Committee  
October 15, 2020  
Research Notes**

**Item No. 3A  
File No. 201988**

**Researcher: TA   Reviewer: PGE**

RESOLUTION AMENDING THE MIAMI-DADE COUNTY INVESTMENT POLICY REMOVING THE REQUIREMENT THAT THIRD PARTY CUSTODIANS BE QUALIFIED PUBLIC DEPOSITORIES, AND ADDING A REQUIREMENT THAT SECURITIES PURCHASED BY THE COUNTY MUST BE HELD FOR THE CREDIT OF THE COUNTY IN ACCORDANCE WITH SECTION 218.415 OF THE FLORIDA STATUTES

**ISSUE/REQUESTED ACTION**

Whether the Board should amend the Miami-Dade County Investment Policy (Investment Policy) to remove the requirement that third-party custodians be qualified public depositories and add a requirement that securities purchased by the County must be held for the credit of the County.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Finance Department**

This item has no procedural history.

**ANALYSIS**

The purpose of this item is to amend the Miami-Dade County Investment Policy to:

- Remove the requirement that third-party custodians be a qualified public depository (QPD);
- Add a requirement that securities purchased by the County must be held for the credit of the County in accordance with Section 218.15 of the Florida Statutes\*; and
- Correct scrivener's errors.

\* Note: The addition of this language may be redundant because the previous sentence already states that "All securities purchased by the County must be held for the credit of the County...". The only new language is *in accordance with Florida Statutes §218.415*; however, that statute applies to the Investment Policy overall. Thus, the italicized language could be added to the existing sentence.

The County's investment advisor, First Southwest Company, and the County Attorney's Office concur that these revisions are compliant with Florida Statutes §218.415, which pertain to local government investment policies. Specifically, the section pertaining to third-party custodians is as follows:

*(10) THIRD-PARTY CUSTODIAL AGREEMENTS. The investment policy shall provide appropriate arrangements for the holding of assets of the unit of local government. Securities should be held with a third party; and all securities purchased by, and all collateral obtained by, the unit of local government should be properly designated as an asset of the unit of local government. No withdrawal of securities, in whole or in part, shall be made from safekeeping, except by an authorized staff member of the unit of local government. Securities transactions between a broker-dealer and the custodian involving purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis, if applicable, to ensure that the custodian will have the security or money, as appropriate, in hand at the conclusion of the transaction.*

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The Investment Policy in its current form was originally adopted by the Board on September 9, 2004 (Resolution No. R-1074-04) and was last amended in 2016 (Resolution No. R-367-16) and 2009 (Resolution No. R-31-09). In 2016, the Investment Policy was amended to authorize the County to invest in bonds, notes, or instruments backed by the full faith and credit of the government of Israel, updated banking terminology, and corrected scrivener's errors. In 2009, Resolution No. R-1074-04 was rescinded in its entirety and authorized the implementation of a new written investment policy.

According to the U.S. Securities and Exchange Commission (SEC), a "qualified custodian" can be banks, registered broker-dealers, futures commission merchants, or certain foreign entities. A qualified custodian either maintains client funds and securities in a separate account for each client under that client's name, or in accounts that contain only client funds and securities under the name of the investment adviser as agent or trustee for the clients. Depository custodian banks are regulated by the Federal Reserve and subject to a higher standard on compliance, capitalization requirements, and overall code of conduct. The website of Florida's Chief Financial Officer Jimmy Patronis more specifically defines a "qualified public depository" as a bank or savings association that has been approved by the Florida Treasury's Bureau of Collateral Management ("BCM") to accept public funds for deposit. By removing the QPD requirement, the pool of qualified third-party custodians that the County can utilize would be expanded because not all third-party custodians are QPDs.

**ADDITIONAL INFORMATION**

The current list of active QPDs authorized to hold public deposits, as of September 30, 2020 is available at this link: <https://www.myfloridacfo.com/division/treasury/collateralmanagement/documents/ListofActiveQPDs.pdf>

**APPLICABLE LEGISLATION/POLICY**

**Florida Statute 218.415**, Local government investment policies – Investment activity by a unit of local government must be consistent with a written investment plan adopted by the governing body, or in the absence of the existence of a governing body, the respective principal officer of the unit of local government and maintained by the unit of local government or, in the alternative, such activity must be conducted in accordance with subsection (17). Any such unit of local government shall have an investment policy for any public funds in excess of the amounts needed to meet current expenses as provided in subsections (1)-(16), or shall meet the alternative investment guidelines contained in subsection (17). Such policies shall be structured to place the highest priority on the safety of principal and liquidity of funds. The optimization of investment returns shall be secondary to the requirements for safety and liquidity. Each unit of local government shall adopt policies that are commensurate with the nature and size of the public funds within its custody.

[http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0200-0299/0218/Sections/0218.415.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0218/Sections/0218.415.html)

**Resolution No. R-1074-04**, adopted on September 9, 2004, rescinded Resolution No. R-36-01 in its entirety, and authorized the implementation of a new written investment policy.

<http://www.miamidade.gov/govaction/matter.asp?matter=042886&file=false&fileAnalysis=false&yearFolder=Y2004>

**Resolution No. R-31-09**, adopted on January 22, 2009, rescinded Resolution No. R-1074-04 in its entirety and authorized the implementation of a new written investment policy.

<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2008/083625min.pdf>

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**Resolution No. R-367-16**, adopted on May 17, 2016, amended the Miami-Dade County Investment Policy authorizing investments in bond, notes, or instruments backed by the full faith and credit of the government of Israel and modifying the composition of and maturity of certain authorized investments.

<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2016/160417min.pdf>

### **CONTRIBUTORS**

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### **The Office of the Commission Auditor, Miami-Dade Board of County Commissioners**

The Office of the Commission Auditor (OCA) was established in September 2002 by Ordinance 03-2 to provide support and professional analysis of the policy, service, budgetary and operational issues before the Miami-Dade Board of County Commissioners. The Commission Auditor's duties include reporting to the Board of County Commissioners on the fiscal operations of County departments, as well as whether the fiscal and legislative policy directions of the Commission are being efficiently and effectively implemented

These research notes, prepared in collaboration with the Miami Dade County departments as subject matter experts, is substantially less detailed in scope than an audit in accordance with the Generally Accepted Auditing Standards (GAAS). The OCA plans and performs the review to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on its objectives; accordingly, the OCA does not express an opinion on the data gathered by the subject matter expert(s).