

**RESOLUTION NO. 214**

**ADOPTING AN UPDATED INVESTMENT POLICY FOR ALBANY COUNTY**

Introduced: 5/14/18

By Audit and Finance Committee:

WHEREAS, New York State General Municipal Law requires Albany County to adopt an investment policy as a guideline for investment of County funds, and

WHEREAS, The Department of Management and Budget/Division of Finance has drafted an updated policy which was reviewed and approved by the Department of Audit and Control, and

WHEREAS, The proposed updated investment policy conforms to guidelines set forth by the Office of the State Comptroller, now, therefore be it

RESOLVED, That the Albany County Legislature hereby adopts the investment policy annexed hereto as the Investment Policy for Albany County, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate State and County Officials.

*Adopted by unanimous vote - 5/14/18*

**INVESTMENT POLICY  
FOR  
ALBANY COUNTY**

**I. SCOPE**

This investment policy applies to all short term operating funds available for investment on its own behalf.

Except for cash in certain restricted and special funds, Albany County will consolidate cash balances from all funds to maximize potential investment earnings. Investment income earned will be allocated to the various funds based upon their respective participation and in accordance with generally accepted accounting principles.

**II. OBJECTIVES**

The primary objectives of the Albany County's investment activities are, in priority order:

1. **to adequately safeguard principal (safety)**  
Preservation of principal is a critical objective of Albany County's investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio, and mitigates both credit risk and interest rate risk;
2. **to provide sufficient liquidity to meet all operating requirements (liquidity)**  
The County's investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated; and
3. **to obtain a reasonable rate of return (yield)**  
The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs as forecasted by internal cash flow models. Return on investment is of secondary importance compared to the safety and liquidity objectives.

In meeting these objectives, the County will conform with all applicable federal, state and other legal requirements. The basis for the eligible investments for Albany County shall be the General Municipal Law as well as guidelines issued by the NYS Comptroller's Office.

**III. DELEGATION OF AUTHORITY**

The Albany County Legislature's responsibility for administration of the investment program is delegated to the Commissioner of Management and Budget, as chief investment officer, as derived from Article 5 (Section 502c) of the County Charter. The chief investment officer shall establish written procedures which shall include the operation of the investment program consistent with this policy.

Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a data base or records incorporating description and amounts of investments, transaction dates, and other relevant information and regulate the activities of subordinate employees.

Procedures shall include, but not be limited to: safekeeping, delivery vs. payment of securities, investment accounting, repurchase agreements, wire transfer agreements and collateral/depository agreements.

**IV. INVESTMENT ADVISORY BOARD**

The chief investment officer shall be guided in his implementation of the investment policy by an Investment Advisory Board. The Investment Advisory Board shall consist of six members, three of which shall be appointed by the County Executive, one of which shall be appointed by the County Comptroller, one of which shall be appointed by the Majority Leader of the County Legislature and one of which shall be appointed by the Minority Leader of the County Legislature.

The chief investment officer, along with his staff, and the Investment Advisory Board shall meet no less frequently than quarterly and will review the performance of the County's investment program and future economic forecasts. The Board will report to the County Executive no less than annually on such performance.

The Investment Advisory Board will also be responsible for reviewing any proposed changes to this policy and recommending to the County Executive, no less than annually, any amendments which it feels the County Executive should submit to the County Legislature for its consideration.

#### **V. PRUDENCE**

All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the County to govern effectively.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing the overall portfolio. Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in timely fashion and liquidity and sale of securities are carried out in accordance with the terms of this policy.

#### **VI. CONFLICTS OF INTEREST**

All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

Employees and investment officials involved in this process shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial or investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of Albany County.

Where applicable, actions should also be guided by the "Code of Ethics and Financial Disclosure Law of Albany County," otherwise known as Local Law 8 of 2011.

## **VII. DIVERSIFICATION**

It is the policy of Albany County to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

## **VIII. INTERNAL CONTROLS**

It is the policy of Albany County for all moneys collected by any officer or employee of the Albany County to transfer those funds to the chief investment officer within one day of deposit, or within the time period specified in law, whichever is shorter.

The chief investment officer or other officer having custody of money is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments of the County are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with the chief investment officer's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

Accordingly, the chief investment officer shall establish a process for an annual independent review by an external auditor to assure compliance with policies and procedures. The internal controls shall address the following points:

- avoidance of collusion;
- separation of transaction authority from accounting and record keeping;
- custodial safekeeping;
- avoidance of physical delivery securities;
- clear delegation of authority to subordinate staff members;
- written confirmation of transactions for investment and wire transfers; and
- development of a wire transfer agreement with the lead bank and third party custodian in compliance with the General Municipal Law.

## **IX COLLATERALIZING OF DEPOSITS**

In accordance with the provisions of General Municipal Law, Section 10, all deposits of Albany County, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

1. By a pledge of "eligible securities" with an aggregate "market value," equal to 102% of the aggregate amount of deposits from the categories designated in Appendix A of this policy.
2. By an eligible "irrevocable letter of credit" issued by a qualified bank, other than the bank with the deposits, in favor of the County for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.

3. By an eligible surety bond payable to the County for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

#### **X. SAFEKEEPING AND COLLATERALIZATION**

Eligible securities used for collateralizing deposits shall be held by a third party bank subject to security and custodial agreements.

The security agreement shall provide that eligible securities are being pledged to secure Albany County deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the County to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of Albany County such securities shall be delivered in a form suitable for transfer or with an assignment in trust to Albany County or its custodial bank.

The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for Albany County, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The custodial agreement shall also describe that the custodian shall confirm the receipt, substitution or release for the securities. It shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. It shall include all provisions necessary to provide Albany County a perfected interest in the securities.

The chief investment officer will maintain a list of financial institutions authorized to provide investment services to Albany County. In addition, a list will be maintained of approved security broker/dealers selected by creditworthiness (e.g., a minimum capital requirement of \$10,000,000 and at least five years of operation). These may include "primary" dealers of regional dealers that qualify under the Securities and Exchange Commission Rule 15c3-1 (uniform net capital rule).

All financial institutions and brokers/dealers who desire to become qualified for investment transactions with the County must supply the following when/where appropriate:

- Audited financial statements
- Proof of National Association of Securities Dealers (NASD) certification
- Proof of New York State registration
- Completed broker/dealer questionnaire
- Certification of having and understood and agreeing to comply with Albany County's investment policy

An annual review of the financial condition and registration of qualified financial institutions and broker/dealers will be conducted by the chief investment officer.

From time to time, the chief investment officer may choose to invest in instruments offered by minority and community financial institutions. In such situations, a waiver to the criteria, except in terms of conflicts of interest, may be granted. All terms and relationships will be

fully disclosed prior to purchase and will be reported to the appropriate entity on a consistent basis, and will be consistent with New York State and applicable local law. These types of investment purchases will be approved in advance by the Albany County Legislature.

#### **XI. PERMITTED INVESTMENTS**

As authorized by General Municipal Law, the Albany County Legislature authorizes the chief investment officer to invest moneys not required for immediate expenditure, for terms not to exceed the County's projected cash flow needs, in the following types of investments:

- Special time deposit accounts;
- Certificates of deposit;
- Obligations of the United States of America;
- Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;
- Obligations of the State of New York;
- Obligations issued pursuant to LFL S24.00 or 25.00 (with approval of the NYS Comptroller) by any municipality, school district or district corporation, other than Albany County;
- Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general NYS statutes governing such entities or whose specific enabling legislation authorizes such investments;
- Certificates of Participation (COPs) issued pursuant to General Municipal Law, Section 109-b;
- Obligations of Albany County, but only with any moneys in a reserve fund established pursuant to General Municipal Law, Sections 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m, or 6-n;
- Any other investment authorized by the General Municipal Law and the NYS Comptroller.

All investment obligations shall be payable or redeemable at the option of Albany County at such times as the proceeds will be needed to meet expenditures for purpose for which the money were provided and, in the case of obligation purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Albany County within two years of the date of purchase.

#### **XII. AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS**

Albany County shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which Albany County conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of Albany County. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The chief investment officer is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

#### **XIII. PURCHASE OF INVESTMENTS**

The chief investment officer is authorized to contract for the purchase of investments:

1. Directly, including through a repurchase agreement, from an authorized trading partner.
2. By participation in a cooperative investment program with another authorized government entity pursuant to General Municipal Law, Article 3A (Chapter 623 of the Laws of 1998) where such programs meets all the requirements set forth and the specific program has been authorized by the Albany County Legislature.
3. By utilizing an ongoing investment program pursuant to a contract authorized by the Albany County Legislature.

All purchased obligations, unless registered or inscribed in the name of Albany County, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to Albany County by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law, Section 10.

The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for Albany County, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide Albany County a perfected interest in the securities.

#### **XIV. REPURCHASE AGREEMENTS**

Repurchase agreements are authorized subject to the following restrictions:

- All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
- Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- Obligations shall be limited to obligations of the United States of America and obligations of agencies of the United States of America where principal and interest are guaranteed by the United States of America.
- No substitution of securities will be allowed.
- The custodian shall be a party other than the trading partner.

#### **XV. REPORTING**

1. **Methods:** The chief investment officer shall prepare an investment report at least quarterly, including a management summary that provides an analysis of the status of the current investment portfolio and transactions made over the last quarter. This management summary will be prepared in a manner which will allow the County to ascertain whether investment activities during the reporting period have conformed to the investment policy.

Appendix A

Schedule of Eligible Securities

- \_\_\_\_\_ (i) Obligations issued, or fully insured or guaranteed as to the payment of principal and United States of America, an agency thereof or a United States government sponsored operation.
- \_\_\_\_\_ (ii) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.
- \_\_\_\_\_ (iii) Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the Market Value of the obligation that represents the amount of the insurance or guaranty.
- \_\_\_\_\_ (iv) Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district corporation of such State or obligations of any public benefit corporation which under a specific State statute may be accepted as security for deposit of public moneys.
- \_\_\_\_\_ (v) Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- \_\_\_\_\_ (vi) Obligations of counties, cities and other governmental entities of a state other than the State of New York having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- \_\_\_\_\_ (vii) Commercial paper and bankers' acceptances issued by a bank, other than the Bank, rated in the highest short term category by at least one nationally recognized statistical rating organization and having maturities of not longer than 60 days from the date they are pledged.
- \_\_\_\_\_ (viii) Zero coupon obligations of the United States government marketed as "Treasury strips."