

PROFESSIONAL BAIL BONDSMEN Custodial Trust Account FAQs

Q. What financial entity serves as the master custodian to hold securities deposited with the Commissioner?

A. U.S. Bank Institutional Trust & Custody (US Bank) currently serves as the master custodian to hold securities for deposits (required by law) of both professional bail bondsmen (PBB) and insurance companies licensed to do business in North Carolina.

Q. What is the contract term with US Bank to serve as master custodian?

A. US Bank was awarded the contract to serve as master custodian to hold these custodial account funds for the Department effective February 1, 2007, for a ten year contract term.

Q. Is there an e-mail address that PBB can send inquiries about their custodial trust account?

A. Yes; inquiries can be sent via e-mail to ncdoi.custodian@usbank.com.

Q. What telephone number would PBB call to make inquiries about their custodial trust account?

A. The phone number to call for information regarding your custodial account is 1-877-877-2143, option 1.

Q. Can PBB access my custodial trust account information online?

A. US Bank's on line system TrustNow Essentials (TNE) will provide PBB with secure access to account information via the internet. TNE provides real-time access to your account information 24 hours/7 days a week. You can review your accounts from anywhere you have access to the internet. TNE offers many benefits including the ability to download transaction history and statement information. Individually, a PBB can request online access from U.S. Bank at anytime during their normal hours of operation. Please contact your U.S. Bank representative at 1-877-877-2143 for additional information.

Q. Is there a specific person in Agent Services Division (ASD) that PBB can contact with questions on procedures for custodial trust fund accounts?

A. Keisha Evans and Simone Singleton are the Bail Bond Administrators in ASD. Keisha's e-mail contact information is keisha.evans@ncdoi.gov and her phone number is (919) 807-6800 x 8076832. Simone's email contact information is simone.singleton@ncdoi.gov and her phone number is (919) 807-6800 x 8076827.

Q. What is the minimum account balance that the PBB must maintain in the custodial trust account?

A. Pursuant to NCGS § 58-71-145, each PBB acting as surety on bail bonds in this State shall maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of this deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of said month and the value of said deposit shall in no event be less than fifteen thousand dollars (\$15,000).

Q. What is a PBB required to do if the minimum security deposit is not maintained in the custodial trust account?

A. Pursuant to NCGS § 58-71-160 (a) any PBB, whose security deposits with the Commissioner are, for any reason, reduced in value below the requirements in Article 71, shall immediately upon receipt of a notice of deficiency from the Commissioner deposit such additional securities as are necessary to comply with the law. No PBB shall sign, endorse, execute, or become surety on any additional bail bonds, or pledge or deposit any cash, check, or other security of any nature in lieu of a bail bond in any county in North Carolina until the PBB has made such additional deposit of securities as required by the notice of deficiency.

Q. What happens if a PBB fails to comply with the notice of deficiency from the Commissioner and deposit additional funds in the custodial trust account to maintain the minimum security deposit requirements?

A. Pursuant to NCGS § 58-71-160(b) the Commissioner may proceed with administrative action to deny the renewal of any license held by a PBB under this Chapter or may deny the issuance of any license applied for by a professional bondsman under Chapter 58 if, at the time of the renewal application or license application, the PBB has not complied with a notice of deficiency under subsection (a) of this section. The Commissioner may issue the renewal license or the new license upon compliance by the PBB with the notice of deficiency.

Q. What collateral is eligible to be deposited in the custodial trust account?

A. The following categories of collateral are approved for deposit: cash to be invested in a US Bank money market fund; interest bearing notes and bonds of the United States of America; interest-bearing bonds of the State of North Carolina, it's cities or counties; and Certificates of Deposit (CDs) issued by any solvent bank domesticated in the State of North Carolina (other than US Bank) that must be approved by the Commissioner. PBB are also able to deposit other negotiable securities if approved by the Commissioner.

Q.Does the Department require a specific security type in the PBB custodial trust account?

A. The Department requires that a PBB maintain a deposit of securities pursuant to NCGS § 58-71-165. Although the negotiable security does need to be reviewed and approved by the Commissioner as an acceptable security deposit in the collateral trust account, the Department does not mandate a specific security type.

Q. What is the definition in North Carolina of a security?

A. Pursuant to NCGS § 78A-2(11) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract including without limitation any investment contract taking the form of a whiskey warehouse receipt or other investment of money in whiskey or malt beverages; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under a title or lease; viatical settlement contract or any fractional or pooled interest in a viatical settlement contract; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

Q. Which stock and bond may I purchase to be included in my custodial trust account?

A. Stocks and bonds purchased for the PBB custodial trust account must be approved by the Commissioner. Therefore, a PBB must contact ASD prior to purchasing stocks or bonds to be included in his/her bail bond custodial trust account.

Q. If a PBB purchases stocks and bonds as part of their custodial trust account, can they count the total market value as the amount (dollar for dollar) in the trust account when evaluating their liability limits?

A. A PBB may purchase stocks and bonds for the PBB custodial trust account under certain conditions pursuant to 11 NCAC 13.0508. In addition, the PBB must comply (1) with the statute relative to the limits of liability listed in NCGS § 58-71-145 and (2) comply with the statute relative to the limits that may be written on any one individual as cited in NCGS § 58-71-175.

Examples:

#1 - If you purchase \$20,000 in stocks and \$10,000 in bonds the amount in the custodial account on which the bondsman may write bonds would be: $20,000 (x .60) + 10,000(x.80) = 12,000 + 8000 = \20000

The bondsman could write a total of \$160,000 in bonds and no more than \$5000 on any one individual.

#2 - If the bondsman purchases \$40,000 in stocks the amount in the custodial account on which the bondsman may write bonds would be \$24,000 and no more \$6000 on any one individual.

#3 - If the bondsman purchases \$40,000 in bonds the amount in the custodial amount on which the bondsman may write bonds would \$32,000 and no more than \$8000 on any one individual.

Q. How is the market value of the stocks and bonds held in the custodial trust account determined? How often is value of the custodial account evaluated by NCDOT?

A. US Bank provides the market value of the stocks and bonds to NCDOT. The dollar or monetary value of the stocks and bonds are provided to NCDOT on the last day of each month. The value of the custodial account is evaluated monthly.

NCDOT uses the value of the stock to determine if sufficient funds are on deposit in the custodial account pursuant to NCGS §§ 58-71-145 and 58-71-175. In accordance, with 11 NCAC 13.0508 the value listed as part of the bail bondsman trust account for purposes of the amount of bonds that may be written is 60% of the fair market value of stocks and 80% of fair market value of bonds in the trust account.

Examples:

#1 - Stocks are listed at 60% of their fair market value therefore if the fair market value of the stocks in the custodial account is \$40,000 NCDOT will use \$24,000 as the amount in the custodial account.

#2 - Bonds are listed at 80% of the fair market value therefore, if the fair market value of the bonds in the custodial account is \$40,000 NCDOT will use \$32,000 as the amount in the custodial account.

Rules and Regulation References:

11 NCAC 13 .0508 STOCKS OR BONDS AS SECURITY

When stocks or bonds are submitted to the Commissioner of Insurance by a professional bondsman as security deposit and are found satisfactory by the Commissioner, the professional bail bondsman shall sign and deliver to the Commissioner, in addition to the power of attorney specified in G.S. 58-71-155, an "irrevocable stock or bond power" on forms supplied by the Commissioner. The irrevocable stock or bond power shall contain a description of the stocks or bonds being deposited as security and a statement that the professional bondsman sells, assigns, and transfers the stocks or bonds to the (Name of the Master Trust Bank) as custodian for the North Carolina Department of Insurance for the benefit of (Name of Professional Bondsman). When satisfactory bonds are submitted to the Commissioner by a professional bail bondsman, the Commissioner will accept 80 percent of the fair market value of such bonds as the amount of security furnished. When satisfactory stocks are submitted by a professional bail bondsman, the Commissioner will accept 60 percent of the fair market value of such stocks as the amount of security furnished.

NCGS § 58-71-145 - Each professional bondsman acting as surety on bail bonds in this State shall maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of this deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of said month and the value of said deposit shall in no event be less than fifteen thousand dollars (\$15,000).

NCGS § 58-71-175 - No professional bondsman shall become liable on any bond or multiple of bonds for any one individual that totals more than one-fourth of the value of the securities deposited with the Commissioner at that time, until final termination of liability on such bond or multiple of bonds.

Q. If securities other than stocks and bonds are held in the custodial trust account, can I count the total market value as the amount (dollar for dollar) in the custodial trust account when evaluating my liability limits?

A. Yes; securities other than stocks and bonds are valued as dollar to dollar of current market value.

Q. What is the procedure for a PBB to deposit funds in the custodial trust account?

A. The PBB must complete a US Bank Deposit of Securities form and follow instructions on the form for delivery of the funds to US Bank.

Q. Are there fees charged to the PBB by US Bank for their custodial trust fund accounts?

A. Pursuant to NCGS § 58-71-151, US Bank may charge the PBB fees for services rendered in connection with the operation of the trust, and the assets of the account may be used to pay such charges with approval from the Commissioner. The fees charged to PBB are outlined in the fee schedule for ASD holdings. The initial US Bank fee schedule was effective February 1, 2007. A new US Bank Fee Schedule for ASD holdings was implemented effective July 1, 2011.

Q. What is the contract amendment to the US Bank effective July 1, 2011?

A. Effective July 1, 2011 the fee schedule for ASD custodial trust accounts holdings was amended to waive the annual account maintenance fee for PBB whose entire security custodial security deposit is in the US Bank First American Mutual Fund account. Fees for PBB that have their custodial funds either all or partly in other securities such as CDs, Stocks, Mortgages, and Treasury Notes, etc., will not have their annual account fees waived by US Bank.

Q. What happens if a PBB has their custodial funds either all or partly in other securities and converts their entire deposit to US Bank First American Mutual Fund account after July 1, 2011?

A. Effective the date that all the custodial trust funds are deposited entirely in the US Bank First American Mutual Fund account, per the ASD fee schedule, the annual account maintenance fee and the majority of other fees will be waived. PBB will be responsible for any fees accrued prior to that date.

Q. Is the US Bank First American Mutual Fund account insured by the Federal Deposit Insurance Corporation (FDIC)?

A. An investment in money market funds is not insured or guaranteed by the FDIC or any other governmental agency. Although these funds seek to preserve the value of your investment at \$1.00 per share it is possible to lose money by investing in these funds. You can review detailed information about this money market fund in the latest fund fact sheet and prospectus available online at http://www.firstamericanfunds.com/home/money-market-funds/literature-amp-materials/fund-documents.aspx/d=1031/title=Treasury_Obligations/class=A

Q. How often does a PBB receive a statement for their custodial trust account?

A. The PBB will be mailed a quarterly statement by US Bank for their custodial trust account. PBB will receive their statements by the 10th business day following the quarter end,

Q. How are the fees billed to PBB?

A. PBB are invoiced by US Bank directly for the fees for their custodial trust account on a semi-annual basis. If a PBB does not remit the fees to US Bank, pursuant to NCGS § 58-71-151, the assets of the custodial trust account may be used to pay such charges. Only income can be used to pay US Bank fees, if principal is to be used it must be in the US Bank money market and have prior approval from the Commissioner.

Q. How would a PBB review the US Bank fees paid for their PBB custodial trust account?

A. If the US Bank fees are paid through US Bank liquidating the funds from the PBB custodial trust fund account, the fee payments will be reflected on the PBB quarterly statement. If the PBB paid the fees to US Bank directly after receiving the invoice, the fees will not be listed on the PBB quarterly statement. The PBB should e-mail US Bank at ncdoi.custodian@usbank.com and request that US Bank provide the information on fees paid for the timeframe in question. Since US Bank's fee division will need to review the request and provide the information, PBB should allow at least 2 - 3 business days for their request to be processed.

Q. What is the procedure if a PBB wants to switch out securities in their custodial trust account?

A. The PBB should submit a Substitution/Release Request Form to the Commissioner for approval. Four types of substitutions may result:

1. **One-for-One:** The new security provides exactly the same level of collateral deposit as the existing security. If the new (replacement) security is in an approved category, approval by the Commissioner is not required. Otherwise, US Bank will only process the substitution with the approval of the Commissioner.
2. **Net Increase:** The new security provides a greater level of collateral deposit than the existing security. If the new (replacement) security is in an approved category, approval by the Commissioner is not required. Otherwise, US Bank will only process the substitution with the approval of the Commissioner.
3. **Net Decrease:** The new security provides a lower level of collateral deposit than the existing security. This substitution requires pre-approval by the Commissioner.
4. **Maturity:** Upon maturity of an eligible (book-entry) security, the proceeds will automatically be deposited into the PBB custodial trust account and invested in the US Bank money market fund. This type of substitution requires no Substitution Request or authorization. Confirmation of this activity to the PBB will result through the normal custodial trust account statement reporting.

Q. What is the procedure for holding Certificates of Deposit (CDs) in the custodial trust account?

A. US Bank will establish each CD on their system with the issue date, interest rate, and maturity date. Each issuing bank shall be instructed to make income payments to US Bank. Delivery instructions for these income payments will be provided to the PBB holding CDs. US Bank will track/monitor the maturity dates in order to alert each PBB of the upcoming maturity ten (10) days before maturity.

Q. What is the procedure for purchasing a brand new CD (not a rollover)?

- A. In order to purchase a CD, a PBB must first send the following information to US Bank:
- The name of the bank where the PBB wishes to purchase the CD
 - The name & number of the person at the bank the PBB has spoken to, along with the terms of the CD.

Once the above information is received, US Bank will contact the issuing bank to make sure everything is in order.

Q. What is the procedure for a PBB to request a partial release of funds from the custodial trust account?

A. The PBB must complete a NCDOT Affidavit of Partial Release and the US Bank Security Release Form. A copy of current monthly report is required also to see if in compliance after release of funds. If bondsman is in compliance after release of funds, bail administrator notifies US Bank by completing a Security Release Form under bail administrator's signature. The security release forms are sent to US Bank via e-mail. All forms are attached to bail bondsman SBS record.

Q. What is the procedure for a PBB to request a full release of funds from the custodial trust account?

A. The PBB makes a request in writing to close account and submits a Security Release Form and NCDOT Termination Affidavit Form. Bail Administrator notifies 101 county clerks of court of the bondsman intention to close the bail bond business, and ask the clerks to examine their records for any outstanding bail obligations pending in their courts. Clerks are allowed 30 days to respond to bail administrator's request. After 30 days, and no response, bail administrator will send US Bank a security release form under the bail administrator's signature and the bondsman's security release form by e-mail, to US Bank, instructing US Bank to close account less closing fees.