

## **Custodial agreement review checklist**

### **Requirements under Texas Administrative Code Section 7.86**

#### **Section 1: Name of entities**

**Name of insurer:**

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**Name of custodian:**

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#### **Section 2: Answer yes or no and provide comments below if response is "no":**

1. The custodian will exercise the same care that is in accordance with reasonable commercial standards expected of a custodian with the responsibility for the safeguarding of the insurer's or HMO's custodied securities and for compliance with all provisions of the custodial agreement, whether the insurer's or HMO's custodied securities are in the custodian's possession or deposited by the custodian with a sub-custodian.  
 Yes    No
  
2. The custodian will indemnify the insurer or HMO for any loss of custodied securities caused by the negligence or dishonesty of custodian's officers, employees, or agents, or burglary, robbery, hold-up, theft, or mysterious disappearance, including loss by damage or destruction. In the event of a loss, the custodian must promptly replace the securities or their value, and the value of any loss of rights or privileges resulting from the loss of custodied securities.  
 Yes    No
  
3. Custodied securities will be segregated at all times from the proprietary assets of the custodian and/or sub-custodian.  
 Yes    No
  
4. The custodian's official records will separately identify custodied securities owned by the insurer or HMO, whether held by the custodian or sub-custodian. If held by a sub-custodian, the custodian's records will also identify the sub-custodian.  
 Yes    No
  
5. Custodied securities that are in registered form will be registered only in the name of the insurer or HMO, the custodian or its nominee, or the sub-custodian or its nominee.  
 Yes    No

6. All activities involving the insurer's or HMO's custodied securities will be subject to the insurer's or HMO's instructions and the custodied securities will be withdrawable upon demand of the insurer or HMO.  
 Yes  No
7. The custodian will furnish, upon request by the insurer or HMO, a confirmation of all transfers of custodied securities to or from the account of the insurer or HMO, and reports of custodied securities sufficient to verify information reported in the insurer's or HMO's annual statement filed with the Texas Department of Insurance and supporting schedules and information required in any audit of the insurer's or HMO's financial statements whether the custodied securities are held by the custodian or by a sub-custodian.  
 Yes  No
8. The insurer, HMO, or its designee will be entitled to examine all records maintained by the custodian or sub-custodian relating to the insurer's or HMO's custodied securities during the course of the custodian's regular business hours. This paragraph does not apply to a clearing corporation or the Federal Reserve Book Entry System.  
 Yes  No
9. Upon request of the insurer or HMO, the custodian will send to the insurer or HMO all reports it receives from a clearing corporation or the Federal Reserve book-entry system on their respective systems of internal accounting control, and all reports prepared on the custodian's and sub-custodian's systems of internal accounting control of custodied securities.  
 Yes  No
10. The custodian will not use any of the insurer's or HMO's custodied securities for the custodian's benefit and none of the insurer's or HMO's custodied securities will be loaned, pledged, or hypothecated by the custodian or sub-custodian without a written contract executed by the insurer or HMO separate and apart from the custodial agreement.  
 Yes  No
11. The custodian is authorized and instructed by the insurer or HMO to honor any requests made by the Texas Department of Insurance for information about the insurer's or HMO's custodied securities. The Department, from time to time, may request, and the custodian will furnish, a detailed listing of the insurer's or HMO's custodied securities (whether in the possession of the custodian or with a sub-custodian). The custodian's response to such requests will be made directly to TDI and will encompass all of the insurer's or HMO's custodied securities (whether in the possession of the custodian or with a sub-custodian).  
 Yes  No

12. The custodian and sub-custodian will maintain the usual and customary insurance coverage for custodial banking risks at levels considered reasonable and customary for the custodian banking industry covering the custodian's duties and activities as custodian for the insurer's or HMO's assets and will describe the nature and extent of such insurance protection. Any change in such insurance protection during the term of the custodial agreement will be promptly disclosed to the insurer or HMO.

Yes    No

**If you answered "no" to any question in Section 2, state the reason below:**

Item number and reason:

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