

OPINION NO. 89-077**Syllabus:**

1. Pursuant to R.C. 135.18, any federal reserve bank or branch thereof located in Ohio may act as a qualified trustee for the safekeeping of securities as provided in R.C. 135.18.
2. Pursuant to R.C. 135.181, any federal reserve bank or branch thereof located in Ohio may act as a qualified trustee for the safekeeping of securities as provided in R.C. 135.181.
3. A federal reserve bank serving as a qualified trustee pursuant to R.C. 135.14, R.C. 135.18, or R.C. 135.181 meets the requirements imposed by statute when it performs safekeeping of securities, reporting, evaluation, and related activities as set forth in those provisions, regardless of whether it refers to its functions as those of a trustee or those of a custodian.

To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, October 16, 1989

I have before me your request for an opinion on the following question:

In what manner and under what terms and conditions must the Federal Reserve Bank of Cleveland act in order to satisfy the requirements of a "qualified trustee" as that term is used in Sections 135.14, 135.18, and 135.181, Revised Code?

Your question arises from the fact that, while the statutes in question use the word "trustee," the Federal Reserve Bank of Cleveland has indicated that it considers its statutory obligations to be satisfied when it serves as custodian of the securities placed with it pursuant to R.C. 135.14, 135.18, and 135.181.

R.C. 135.14¹ authorizes the treasurer or governing board of a political subdivision other than a county,² see R.C. 135.01(D), (L), (M), to invest or deposit interim moneys of the subdivision in the manner set forth therein. R.C. 135.14 provides that the "treasurer is responsible for the safekeeping of all documents evidencing a deposit or investment acquired by him under this section." It provides for the use of a qualified trustee as follows:

Any securities may be deposited for safekeeping with a qualified trustee as provided in section 135.18 of the Revised Code, except the delivery of securities acquired under a repurchase agreement shall be made to a qualified trustee, provided, however, that the qualified trustee shall be required to report to the treasurer, governing board, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the subdivision for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the subdivision....

....
...Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, governing board, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee. (Emphasis added.)

R.C. 135.14 thus provides for a qualified trustee to be responsible for the safekeeping of securities and for reporting as to the identity, market value, and location of documents evidencing the securities.

R.C. 135.18 provides that, before public money is deposited in a public depository under R.C. 135.01-.21, the public depository must pledge and deposit security for the repayment of the public money to be deposited in the depository, over and above the amount that is insured by the federal government. Instead of depositing the security with the treasurer, R.C. 135.18(D) permits the depository to deposit it with a qualified trustee, as follows:

An institution designated as a public depository may, by written notice to the treasurer, designate a qualified trustee and deposit the eligible securities required by this section with the trustee for safekeeping for the account of the treasurer and the institution as a public depository, as their respective rights to and interests in such securities under this section may appear and be asserted by written

¹ R.C. 135.14 was amended by two separate and inconsistent acts of the 117th General Assembly. See Am. Sub. H.B. 584, 117th Gen. A. (1988) (eff. March 17, 1989); Sub. H.B. 292, 117th Gen. A. (1988) (eff. Dec. 15, 1988). Am. Sub. H.B. 584 removed the investment of interim moneys by the Treasurer of State from R.C. 135.14 and enacted R.C. 135.143 to cover such investments. Sub. H.B. 292 expanded the authority granted to the Treasurer of State by R.C. 135.14 to invest interim moneys of the state in linked deposits. Neither of the amendments affects the portion of R.C. 135.14 that is essential to the analysis of this opinion and it is, accordingly, unnecessary for this opinion to attempt to reconcile the two amendments. See generally R.C. 1.52.

² Provisions governing deposits and investments of public moneys of a county appear in R.C. 135.31-.40. R.C. 135.35 and R.C. 135.37 provide for the designation of qualified trustees for purposes analogous to those set forth in R.C. 135.14 and R.C. 135.18. R.C. 135.37 permits a public depository receiving moneys from a county to pledge securities pursuant to R.C. 135.181.

notice to, or demand upon the trustee. In such case, *the treasurer shall accept the written receipt of the trustee describing the securities which have been deposited with the trustee by the public depository, a copy of which shall also be delivered to the public depository. Thereupon all such securities so deposited with the trustee are deemed to be pledged with the treasurer and to be deposited with him, for all the purposes of this section.* (Emphasis added.)

R.C. 135.18(I) specifies that a federal reserve bank is qualified to act as such a trustee, stating:

Any federal reserve bank or branch thereof located in this state, without compliance with sections 1109.03, 1109.04, 1109.17, and 1109.18 [governing trust companies] of the Revised Code and without becoming subject to section 1109.15 [providing for examination of trust companies by the Superintendent of Banks] of the Revised Code or any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. (Emphasis added.)

With respect to the duties of such a qualified trustee, R.C. 135.18(I) states:

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee shall have no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, without limitation, a substitution or exchange of securities. (Emphasis added.)

R.C. 135.181 provides that, instead of complying with the pledging requirements of R.C. 135.18 or R.C. 135.37, *see note 2, supra*, a public depository may, at its option, "pledge a single pool of eligible securities to secure the repayment of all public moneys deposited in the institution and not otherwise secured pursuant to law," provided that the value of the securities pledged equals at least one hundred ten per cent of the total amount of public deposits. R.C. 135.181(B). If this method of providing security is selected, the public depository "shall designate a qualified trustee and deposit with the trustee for safekeeping the eligible securities pledged pursuant to [R.C. 135.181(B)]." Like R.C. 135.18, R.C. 135.181 states that any federal reserve bank or branch located in this state is qualified to act as "trustee for the safekeeping of securities," without complying with state law governing trust companies. R.C. 135.181(F). With respect to the duties of the qualified trustee, R.C. 135.181(H) states:

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee shall have no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations, including, but not limited to, a substitution or exchange of securities, but excluding those situations effectuated by division (I) of this section in which the trustee is required to determine face and market value. (Emphasis added.)

Pursuant to R.C. 135.181(I), if the public depository fails to pay over any part of the public deposits, the treasurer shall notify the qualified trustee. R.C. 135.181(I) prescribes the procedure to be followed by the trustee:

Upon receipt of such notice, the trustee shall transfer to the treasurer for public sale such of the pooled securities as may be necessary to produce an amount equal to the deposits made by the treasurer and not paid over, less the portion of such deposits covered by any federal deposit insurance, plus any accrued interest due on such deposits; however, such amount shall not exceed the state's or

subdivision's proportional security interest in the market value of the pool as of the date of the depository's failure to pay over the deposits, as such interest and value are determined by the trustee.
(Emphasis added.)

The trustee is required to determine the value of the securities in order to carry out this duty. The trustee is also required, upon request of a treasurer no more often than four times per year, to report the total value of the pool of securities deposited with it by the depository and to provide an itemized list of the securities in the pool. R.C. 135.181(L). See generally 1982 Op. Att'y Gen. No. 82-094.

Your question concerns the manner in which the Federal Reserve Bank of Cleveland must act in serving as a qualified trustee under R.C. 135.14, 135.18, and 135.181. The term "trustee" is susceptible of a variety of meanings. "In a strict sense, a 'trustee' is one who holds the legal title to property for the benefit of another, while, in a broad sense, the term is sometimes applied to anyone standing in a fiduciary or confidential relation to another, such as agent, attorney, bailee, etc." *Black's Law Dictionary* 1357 (5th ed. 1979). In a standard trust arrangement, the trustee has legal title to property which he holds for the benefit of another. See, e.g., *Hill v. Irons*, 160 Ohio St. 21, 26-27, 113 N.E.2d 243, 247 (1953); *Ulmer v. Fulton*, 129 Ohio St. 323, 339-40, 195 N.E. 557, 564 (1935); 1985 Op. Att'y Gen. No. 85-065 at 2-243 to 2-244; 1985 Op. Att'y Gen. No. 85-022 at 2-86. The trustee ordinarily has power to manage and invest the property. See, e.g., *Hill v. Irons*, 160 Ohio St. at 27, 113 N.E.2d at 247. Public entities have been considered trustees of property to which they have title, the argument being that they hold the property for the benefit of the public. See, e.g., 1986 Op. Att'y Gen. No. 86-019; 1982 Op. Att'y Gen. No. 82-060. The word "trustee" is used in various contexts throughout the Revised Code. See, e.g., R.C. Chapter 505 (township trustees); R.C. 2107.64 (testamentary trustee as beneficiary of insurance proceeds).

For purposes of your question, it is necessary to consider the manner in which the term "qualified trustee" is used in R.C. 135.14, R.C. 135.18, and R.C. 135.181. In each case, the statute authorizes the deposit of appropriate securities with a qualified trustee "for safekeeping."

Under R.C. 135.14, the securities deposited with a qualified trustee evidence deposits or investments of the governmental entity. R.C. 135.14 states expressly that the treasurer is responsible "for the safekeeping of all documents evidencing a deposit or investment acquired by him" under R.C. 135.14. A qualified trustee who holds such securities is, by R.C. 135.14, made responsible for their safekeeping. The qualified trustee is also required to report upon request as to the identity, market value,³ and location of the document evidencing each security. The treasurer or governing board is authorized to invest or deposit interim moneys, and the trustee does not participate in decisions concerning the manner in which the moneys are invested or deposited.

Under R.C. 135.18 the securities held by a qualified trustee serve as security for the repayment of public money deposited in a public depository. The qualified trustee holds the securities, which are deemed to be pledged with the treasurer of the political subdivision whose moneys have been deposited in the public depository. R.C. 135.18(D). The public depository and the treasurer have duties with respect to

³ R.C. 135.14 does not specify how the qualified trustee is to determine the market value of the securities. R.C. 135.14 does speak of depositing the securities "for safekeeping with a qualified trustee as provided in [R.C. 135.18]." R.C. 135.18 does not, however, provide any insight concerning the duty of a qualified trustee to determine the market value of securities. Instead, R.C. 135.18 states expressly that a qualified trustee "shall have no duty or obligation to determine the...market value...of any securities" deposited with it pursuant to that provision. In the absence of statutory direction, it appears that a qualified trustee may use any reasonable manner to determine and report market values of securities under R.C. 135.14. See generally *Jewett v. Valley Railway Co.*, 34 Ohio St. 601, 608 (1878).

determining that the amount of security is adequate and with respect to the substitution or exchange of eligible securities. See R.C. 135.18(A), (F), (G), (H). For example, the treasurer "may require additional eligible securities to be deposited to provide for any depreciation which may occur in the market value of any of the bonds so deposited." R.C. 135.18(A). The qualified trustee has no such duties. In fact, R.C. 135.18(I) states expressly that the qualified trustee has "no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository." The statute imposes upon the qualified trustee the duty of holding the securities in "safekeeping." R.C. 135.18(D), (E), (F), (G), (I). Notice of certain substitutions or exchanges of securities must be given to the qualified trustee, but the trustee is given no authority to object to such substitutions or exchanges. See R.C. 135.18(G)(2). The qualified trustee is required, upon request from the treasurer, to "furnish a statement of the securities pledged against such public deposits," see R.C. 135.18(H), but is given no discretion with respect to the sale or transfer of securities.

As under R.C. 135.18, the securities held by a qualified trustee under R.C. 135.181 serve as security for the repayment of public money deposited in a public depository. The difference is that under R.C. 135.181 deposits from different governmental entities, including counties, see R.C. 135.181(A); R.C. 135.17; note 2, *supra*, may be pooled so that the securities held by the qualified trustee secure the repayment of public moneys of more than one governmental entity. The public depository is responsible for providing adequate security and is authorized to substitute, exchange, or release securities. See R.C. 135.181(B), (G); Op. No. 82-094 at 2-262 ("the depository and not a trustee is responsible for insuring that the securities pledged are eligible and of adequate value to secure the public deposit"). The qualified trustee is given statutory responsibility for holding the securities in "safekeeping," see R.C. 135.181(E), and is required, upon request of a treasurer no more often than four times per year, to report the total value of the pool of securities deposited with it by the depository and to provide an itemized list of securities in the pool. R.C. 135.181(L). The total value of the pool of securities is to be based on the valuations prescribed in R.C. 135.181(C), which lists types of securities that are eligible as collateral and specifies for each type that such type is to be valued at face value, at a specified percentage of face value, or at the percentage of face value prescribed by the Treasurer of State. The determination of the total value of the pool of securities is, thus, to be carried out pursuant to the formula set forth in the statute, and is not to be based upon valuation in the marketplace. The public depository is required by R.C. 135.181, when it pledges securities with a qualified trustee, to make an initial valuation of the securities as prescribed in R.C. 135.181(C), and is further required to carry in its accounting records at all times an appropriate account of the total value of securities pledged to secure the deposits. R.C. 135.181(B); Op. No. 82-094. The depository is required to assure that "at all times the total value of the securities so pledged, based on the valuations prescribed in [R.C. 135.181(C)], is equal to one hundred ten per cent of the total amount of all public deposits to be secured by the pooled securities." R.C. 135.181(B). My predecessor concluded that the qualified trustee is to use the values as determined by the depository in reporting the total value of the pool of securities deposited with the trustee. See Op. No. 82-094 at 2-262 (under R.C. 135.181(L), "[a] trustee must report the value of the pool as determined by the depository, but is not responsible for insuring that such value remains above one hundred ten percent of the amount of public deposits which the pool collateralizes"). R.C. 135.181 does not prescribe precisely what the itemized list of securities is to contain. Op. No. 82-094 (syllabus, paragraph 2) concluded that such list "must include any information necessary to adequately describe each security." See also Op. No. 82-094 at 2-262 ("the itemized list must include any information necessary to identify the securities. The question of what information is necessary in order to sufficiently describe a security is, however, a question of fact, and the level of detail required may vary for different securities. I can conclude, as a matter of law, only that when requested by a treasurer, no more often than four times a year, a trustee must include in its itemized list of securities that information which is necessary to give an adequate description of each security").

R.C. 135.181(H) states specifically that a qualified trustee has no duty or obligation to determine the eligibility, market value, or face value of the securities deposited by a public depository unless the public depository fails to pay over some of the secured deposits. In that case, the treasurer shall give written notice to the

qualified trustee, who shall transfer to the treasurer securities for the treasurer to sell to obtain the amount due to the subdivision. R.C. 135.181(I). In such circumstances, the qualified trustee has duties of determining the market values of the securities and the proportion allocable to a particular subdivision. The statute prescribes in some detail the amount that the treasurer is entitled to receive from the sale, but does not prescribe the method that the qualified trustee is to use in determining the values of the securities. R.C. 135.181(I). In the absence of statutory directive, the qualified trustee may carry out that duty in any reasonable manner. *See generally Jewett v. Valley Railway Co.*, 34 Ohio St. 601, 608 (1878) ("[w]here authority is given to do a specified thing, but the precise mode of performing it is not prescribed, the presumption is that the legislature intended the party might perform it in a reasonable manner"); Op. No. 82-094. The qualified trustee may, thus, make appropriate inquiries or undertake research in order to determine the value of particular securities.

R.C. 135.181(K) contains provisions with respect to the endorsement of the securities deposited with a qualified trustee, as follows:

In lieu of placing its unqualified endorsement on each security, a public depository pledging securities pursuant to division (B) of this section that are not negotiable without its endorsement or assignment may furnish to the qualified trustee holding the securities an appropriate resolution and irrevocable power of attorney authorizing the trustee to assign the securities. The resolution and power of attorney shall conform to such terms and conditions as the trustee prescribes.

The qualified trustee, is, thus, given discretion with respect to the terms and conditions of a resolution and irrevocable power of attorney authorizing the trustee to assign pledged securities. The qualified trustee's authority to assign or transfer any pledged securities extends, however, only to the duty to transfer an appropriate amount of securities to a treasurer if the public depository fails to pay over part of the deposits. *See* R.C. 135.181(I).

The duties outlined above are the duties imposed by statute upon an entity that serves as a qualified trustee under R.C. 135.14, R.C. 135.18, or R.C. 135.181. A qualified trustee must, accordingly, act in such a manner as to carry out those duties. Your request asks, in essence, whether a federal reserve bank that calls itself a "custodian" can satisfy those duties. I do not find that the designation of the role performed by the bank as that of "custodian" or "trustee" is determinative on this question. R.C. 135.14, R.C. 135.18, and R.C. 135.181 use the term "qualified trustee" and set forth with reasonable specificity the duties of such an entity. A federal reserve bank⁴ that performs the duties set forth in R.C. 135.14, R.C. 135.18, or R.C. 135.181, respectively, acts in such a manner as to satisfy the requirements of a qualified trustee under such section. The duties set forth in those sections are directed primarily to the safekeeping of securities. A qualified trustee has limited duties with respect to listing and evaluating the securities and with respect to determining the terms and conditions of a power of attorney, as provided in R.C. 135.14, R.C. 135.18, and R.C. 135.181.

The analysis set forth above leads to the conclusion that the duties of a qualified trustee under R.C. 135.14, R.C. 135.18, or R.C. 135.181 are primarily

⁴ In 1973 Op. Att'y Gen. No. 73-068, my predecessor considered the language of R.C. 1109.04, which is analogous to R.C. 135.18 and R.C. 135.181 on the matter of authorizing a federal reserve bank to act as a qualified trustee for the safekeeping of securities. Op. No. 73-068 states, at 2-252: "It is apparent from this language that Federal reserve banks are favored trustees....The reason for this favored position is, of course, that federal reserve banks need no such cautious regulation as is applied to private financial institutions, being an agency of the Federal government. Hence, R.C. 1109.04 must be given a liberal construction with respect to federal reserve banks, if there is any ambiguity in its wording."

custodial, and do not include the discretionary investment responsibilities that are frequently associated with the word "trustee." The importance of the custodial functions of a qualified trustee is evident from the statutory provisions establishing qualifications for an entity other than a federal reserve bank seeking to be certified as a qualified trustee. R.C. 135.18(I) contains the following language:

Any institution mentioned in section 135.03 of the Revised Code which holds a certificate of qualification issued by the superintendent of banks or any institution complying with sections 1109.03, 1109.04, 1109.17, and 1109.18 of the Revised Code, is qualified to act as trustee for the safekeeping of securities, other than those belonging to itself, under this section. Upon application to him in writing by any such institution, the superintendent shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in this state and has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping within this state of such securities. If the superintendent finds that the applicant has been so authorized and does have such vaults and supervision thereof, he shall approve the application and issue a certificate to that effect, the original or any certified copy of which shall be conclusive evidence that the institution therein named is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself. (Emphasis added.)

R.C. 135.181 contains substantially the same provisions with respect to qualification of a trustee as those appearing in R.C. 135.18, with the following exceptions: (1) R.C. 135.181 applies to a somewhat different category of institutions; and (2) R.C. 135.181 excludes securities of an affiliate as defined in R.C. 1101.01(A). Both R.C. 135.18 and R.C. 135.181 thus provide that an entity other than a federal reserve bank seeking to be a qualified trustee must have been authorized to execute and accept trusts in this state and must have "safe and adequate vaults and efficient supervision thereof for the storage and safekeeping" within the state of the securities. The authorization to execute and accept trusts indicates ability to make decisions regarding investments and to exercise discretionary and fiduciary responsibilities that may be imposed upon trustees. With respect to the duties required of a qualified trustee, this language provides assurance of capacity to list and evaluate the securities when necessary. The express mention of the vaults and the supervision thereof provides clear indication of the significance placed by the General Assembly upon the custodial responsibilities of a qualified trustee.

The conclusion that the duties of a qualified trustee under R.C. 135.14, 135.18, or 135.181 are primarily custodial is, further, consistent with the purposes and history of those provisions. Language authorizing a public depository to designate a qualified trustee and deposit eligible securities with the designated trustee for safekeeping first appeared in the Uniform Depository Act in 1939. 1939 Ohio Laws 241 (H.B. 118, passed April 19, 1939). That language specified that any federal reserve bank or branch located in this state was qualified to act as trustee for the safekeeping of securities under G.C. 2296-15a, predecessor to R.C. 135.18. Prior to the enactment of the 1939 amendment, the treasurers of the political subdivisions were themselves required to hold the securities and were, at least in some instances, concerned about their capacity to undertake that responsibility. In 1937 Op. Att'y Gen. No. 995, vol. II, p. 1738, a prosecuting attorney described the concerns of a county treasurer as follows:

[T]he Treasurer has been keeping all security bonds in a lock box in the bank but it is felt that too great a risk is involved in keeping so many bonds deposited in the local banks and it is felt that if an agreement can be entered into between the Bank and the subdivision whereby the Bank would assign the custody receipts to the Treasurer and where notice would be given to the Bank having custody of the bonds of the assignment that it would eliminate considerable risk to the officials and the Sub-division.

1937 Op. No. 995 at 1738-39. The Attorney General declined, under the law then in effect, to approve an arrangement under which securities were held elsewhere and a custody receipt was provided to the treasurer, stating: "I appreciate that such an

arrangement [in which the treasurer holds the securities] increases the responsibility of the treasurer, but the General Assembly imposed this additional responsibility and if treasurers are to be relieved of it, the General Assembly must do it." 1937 Op. No. 995 at 1740. The 1939 amendment provided a method for relieving treasurers of such responsibility.

The evident intent of the language enacted in 1939 and still appearing in R.C. 135.18 was to address the custody of the eligible securities. The amended statute permits a qualified trustee to undertake the function of holding the securities in place of the treasurer. The treasurer has responsibility for assuring that securities are held safely, *see, e.g.*, R.C. 135.14; R.C. 135.18; R.C. 135.181; *see generally* 1965 Op. Att'y Gen. No. 65-97, p. 2-206; 1964 Op. Att'y Gen. No. 826, p. 2-43 at 2-49, and that is the responsibility that is permitted to be transferred to the qualified trustee. *See generally* 1937 Op. No. 995 (syllabus, paragraph 1) ("[t]he Uniform Depository Act has to do with the safeguarding of public moneys and must be construed strictly"). Use of language in R.C. 135.181 that directly parallels the language of R.C. 135.18 indicates that the functions of qualified trustees are substantially similar under the two provisions. The primary duty of a qualified trustee is the safekeeping of securities.

An analogous situation concerning the safekeeping of securities existed under the law governing securities held by a municipal corporation. The law provided a mandatory procedure for the custody and safekeeping of securities belonging to the treasury of a city, and the Attorney General rejected the suggestion that securities be held in safekeeping in a New York bank. 1949 Op. Att'y Gen. No. 522, p. 241. R.C. 731.59 now expressly permits such securities to be held by a federal reserve bank, as follows:

All securities belonging to the treasury of any municipal corporation or to any fund thereof, other than the sinking fund, may be placed in the custody of any member of the federal reserve banking system, upon the issuance by such member of its custodian or other bailment receipt to the treasurer of the municipal corporation. *Such custody shall be as a qualified trustee pursuant to division (D) of section 135.18 of the Revised Code, which shall be required to report to the treasurer, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security.* (Emphasis added.)

This language is consistent with the conclusion that the basic functions of a qualified trustee are to keep custody of the securities placed with it and to make reports as required concerning the securities and their value.

Duties of holding securities for safekeeping are readily distinguishable from making investments of public funds. *See generally State v. Herbert*, 49 Ohio St. 2d 88, 108-111, 358 N.E.2d 1090, 1101-03 (1976) (Corrigan, J., dissenting). The duties that may be transferred to a qualified trustee pursuant to R.C. 135.14, 135.18, or R.C. 135.181 are duties of safekeeping, or keeping custody, and related responsibilities of reporting on and evaluating the securities so kept. Qualified trustees do not have general investment authority with respect to securities held for safekeeping under R.C. 135.14, R.C. 135.18, or R.C. 135.181.

It is, therefore, my opinion, and you are hereby advised, as follows:

1. Pursuant to R.C. 135.18, any federal reserve bank or branch thereof located in Ohio may act as a qualified trustee for the safekeeping of securities as provided in R.C. 135.18.
2. Pursuant to R.C. 135.181, any federal reserve bank or branch thereof located in Ohio may act as a qualified trustee for the safekeeping of securities as provided in R.C. 135.181.
3. A federal reserve bank serving as a qualified trustee pursuant to R.C. 135.14, R.C. 135.18, or R.C. 135.181 meets the requirements imposed by statute when it performs safekeeping of

securities, reporting, evaluation, and related activities as set forth in those provisions, regardless of whether it refers to its functions as those of a trustee or those of a custodian.