USDA United States Department of Agriculture

Agricultural Marketing Service

Custodial Accounts

What is a custodial account?

A custodial account is a trust account. The account benefits livestock consignors. All payments for livestock by buyers and other funds deposited into the custodial account are trust funds.

Who must establish and maintain custodial accounts?

Each market agency selling livestock on commission or agency basis (market) subject to the Packers and Stockyards Act, 1921, (the Act) must establish and maintain a separate bank account designated as custodial account for shippers proceeds. The market acts as a fiduciary for livestock consignors funds. Fiduciaries have a legal responsibility to protect and preserve the funds entrusted to them for the true owners. Markets must establish custodial accounts in Federal Deposit Insurance Corporation (FDIC) – insured banks. They must designate the accounts as "Custodial Account for Shippers' Proceeds," or some similar designation. This designation informs the bank and others that the market is acting as a fiduciary and the funds in the account are trust funds (not owned by the market).According to the FDIC, "generally, each individual interest in a custodial account is insured up to $250,000. To obtain full insurance coverage, either the bank or the depositor must maintain accurate records identifying the interest of each individual in the custodial account." Under the P&S Act, the each auction market must maintain accounts and records that disclose: (1) its handling of the custodial account; (2) the names of all consignors having an interest in the account; and (3) the amount due and payable to each consignor from funds in the custodial account.

Deposits to the Custodial Account

All money received from buyers in payment for livestock sold at auction, on a commission basis must be deposited directly to the custodial account before the close of the next business day after the sales day.

Additionally, when (1) the market, (2) its owners, officers, or employees, or (3) other buyers to whom the market has extended credit buy consigned livestock, the market must deposit funds equal to the proceeds receivable for those livestock into the custodial account by the close of the next business day after the sale. Thereafter, upon receipt, markets must deposit proceeds received from buyers in payment for livestock sold on consignment directly into the custodial account. In addition, markets must reimburse the custodial account, in full, by the close of the 7th day after the sale for any uncollected proceeds receivable.

Withdrawals from the Custodial Account

Markets can only draw from the custodial account to pay (1) the net proceeds due to consignors or any person the market knows is legally entitled to payment, (2) lawful charges from consignors' invoices, and (3) the charges due the market as compensation for its services. Lawful charges against a consignment include charges like trucking, brand, and health inspection fees, meat board, etc., which have been deducted from the sale proceeds, and were authorized by law or by the consignor. Markets are allowed to pay from the custodial account fees associated with the electronic remittance to consignors to the extent the market has set aside reserves for that expense by prefunding the account.

The regulations under the Act prohibit markets from using the custodial account to (1) pay their own general expenses; (2) make advances on livestock consigned or purchased; (3) finance livestock buyers; or (4) finance their own livestock purchases.

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Investing Custodial Account Funds

There are limited opportunities for markets to invest custodial account funds, since these are trust funds, held in trust by the market exclusively for the benefit of livestock consignors. An investment that moves trust funds out of a custodial account subjects those funds to risk. Without the protection of trust account status, creditors can attach those funds to the detriment of the livestock consignor, and rightful owner of the funds.

Markets may maintain custodial account funds in interest bearing savings accounts or invested in one or more certificates of deposit, to the extent the saving account and/or certificate of deposits are properly designated as a part of the custodial account, and maintained at an FDIC insured institution. The market must maintain the properly designated custodial savings account and certificates of deposits in the same institution as the custodial account.

CDs must be made payable to the market as trustee of the custodial funds.

Analysis of Custodial Account

Each market must know whether the custodial account it maintains is in proper balance, and has adequate resources to cover all remittance checks and other obligations as they become due. To make such determination, a market should analyze the custodial account at least once a month, and it must retain the analysis, and all supporting schedules or documents as part of the market's records. Packers and Stockyards Division (PSD) requires markets to submit analyses of the custodial account at least twice annually, showing the status of the custodial account on specific dates, as a part of regulatory activities. We review reports, and take further regulatory action as warranted by what the reports reveal.

If the analysis of a custodial account reveals a shortage, the market must take immediate action to correct the shortage. Typical corrective actions include transferring funds from the general account or other sources into the custodial account, or drawing on a line of credit to deposit an amount equal to the shortage into the custodial account. If the custodial account analysis reveals an overage, the market may leave the excess in the account, move the excess to an allowable custodial account investment, or transfer the excess funds to its general account.

Violations of the P&S Act

The following practices associated with custodial accounts are violations of the P&S Act:

- Custodial account shortages;
- Misusing custodial account funds;
- Failure to remit to livestock consignors when due;
- Failure to timely reimburse the custodial account for uncollected proceeds receivable; and
- Issuing insufficient funds checks or dishonored instruments to consignors.

Penalties for such violations can include cease and desist orders, suspensions of business operations, civil penalties up to a maximum of $28,061 per violation, or permanent injunctions, fines, and jail sentences for actions taken through the Justice Department.

Please direct comments or questions about this publication to

United States Department of Agriculture

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