



**SCOTT FITZPATRICK**  
MISSOURI STATE TREASURER

## **Conflict of Interest Policy** **Effective October 2, 2019**

The statutory authorization for the Missouri Linked Deposit Program is found in sections 30.750 through 30.860 of the Revised Statutes of Missouri. The statutory provisions establish the Missouri Linked Deposit Program in which the Missouri State Treasurer's Office partners with financial institutions to provide low-interest loans to qualified applicants. Under the Missouri Linked Deposit Program, state funds will be deposited in a local financial institution at a reduced rate of interest if the financial institution, in turn, agrees to lend its own funds to an eligible borrower at a comparably reduced interest rate. The Missouri Linked Deposit Program is designed to spur economic development and growth by reducing financing costs for an eligible borrower. The statutes contain a number of requirements for and restrictions on participation in the Missouri Linked Deposit Program. The Missouri State Treasurer is authorized to take any and all steps necessary to implement the Missouri Linked Deposit Program.

As the Missouri Linked Deposit Program utilizes public funds in concert with activities of the private sector, it is imperative that it have rules to prohibit any conflict of interest, or the appearance of or potential for a conflict of interest, which could call into question its integrity.

### **INDIVIDUALS**

Accordingly, under his authority to take the steps necessary to implement both the letter and spirit of the law, the Missouri State Treasurer has adopted the following Conflict of Interest policy that has been proposed and approved by the Investment Committee. The following Conflict of Interest policy applies to individuals applying to the Missouri Linked Deposit Program:

1. Neither the Missouri State Treasurer, nor any employee of the Missouri State Treasurer's office, or his or her immediate family, may receive a Missouri Linked Deposit Program loan.

2. No member of the Missouri General Assembly, or his or her immediate family, may receive a Missouri Linked Deposit Program loan.
3. No statewide elected official, or his or her immediate family, may receive a Missouri Linked Deposit Program loan.
4. No director of a state department, or his or her spouse, may receive a Missouri Linked Deposit Program loan.
5. No executive or legislative lobbyist, as those terms are defined in Section 105.470, RSMo, or his or her spouse, may receive a Missouri Linked Deposit Program loan. This prohibition shall only apply to new Linked Deposit Program loans approved on or after October 2, 2019.
6. No officer, or member of the board of directors, of a financial institution, or his or her spouse, may receive a Missouri Linked Deposit Program loan from that financial institution or any affiliated financial institution unless the extension of credit:
  - a. Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this provision and who are not employed by the financial institution; and
  - b. Does not involve more than the normal risk of repayment or present other unfavorable features.

The term “immediate family” shall mean parents, siblings, spouse, or children whether by consanguinity or operation of law unless in the case of parents, siblings, or non-dependent children the individual is an at-risk producer as defined below and owns or rents agricultural property not in association with any of the above officials, in which case this policy shall not apply.

Any individual that falls into any of the categories above shall be ineligible for a Missouri Linked Deposit Program loan. An at-risk producer is defined as a farmer whose projected non-spousal farming income is greater than his/her non-farm income.

The Missouri State Treasurer or his designee(s) shall be the sole party responsible for the interpretation of this policy and its application to the Missouri Linked Deposit Program applications received. Financial institutions applying for a Missouri Linked Deposit Program loan shall continue to be responsible for verification of applicants’ compliance with this policy. Verification of compliance with the Conflict of Interest policy shall be required at the time of the initial application for a Missouri Linked Deposit Program loan.

**It is anticipated that situations will arise from time to time where an applicant for the Missouri Linked Deposit Program qualifies for participation in the program under the strict letter of the law, yet the applicant's participation would create an appearance of or the potential appearance of impropriety. It is neither feasible nor practical to fashion a rule or rules in advance for dealing with the wide range of such potential situations. Instead, in its initial review of an applicant's eligibility for participation in the Missouri Linked Deposit Program, the lending institution must make its best efforts to determine whether such an appearance or potential appearance of impropriety exists and, in such cases, to give appropriate notice to and make appropriate inquiries of the Missouri State Treasurer's office.**

### **PARTNERSHIPS, CORPORATIONS, COOPERATIVES, AND LIMITED LIABILITY COMPANIES**

For partnerships, corporations, cooperatives, or limited liability companies which apply to the Missouri Linked Deposit Program, under his authority to take the steps necessary to implement the letter and spirit of the law, the Missouri State Treasurer has adopted the following Conflict of Interest policy that has been proposed by the Linked Deposit Committee. The following Conflict of Interest policy applies to partnerships, corporations, cooperatives, and limited liability companies applying for the Missouri Linked Deposit Program:

No partnerships, corporations, cooperatives, or limited liability companies which apply to the Missouri Linked Deposit Program may receive a loan under the Missouri Linked Deposit Program if any of the shareholders in the following categories individually own two percent (2%) or more equity interest in the entity:

1. The Missouri State Treasurer, or any employee of the Missouri State Treasurer's office, or her or her immediate family.
2. Any member of the Missouri General Assembly, or his or her immediate family.
3. Any statewide elected official or his or her immediate family.
4. Any director of a state department, or his or her spouse.
5. Any executive or legislative lobbyist, as those terms are defined in Section 105.470, RSMo, or his or her spouse. This prohibition shall only apply to new Linked Deposit Program loans approved on or after October 2, 2019.

No financial institution may extend credit to any partnership, corporation, cooperative, or limited liability company in which an officer or member of the board of directors of the financial institution, or his or her spouse, owns two percent (2%) or more equity interest in the entity seeking the Missouri Linked Deposit Program loan, unless the extension of credit:

1. Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this provision and who are not employed by the financial institution; and
2. Does not involve more than the normal risk of repayment or present other unfavorable features.

The term “immediate family” shall mean parents, siblings, spouse, or children whether by consanguinity or operation of law unless in the case of parents, siblings, or non-dependent children the individual is an at-risk producer as defined below and owns or rents agricultural property not in association with any of the above officials, in which case this policy shall not apply.

An at-risk producer is defined as a farmer whose projected non-spousal farming income is greater than his/her non-farm income. In addition, the following type of cooperatives shall be exempt from the above restrictions regarding a conflict of interest due to the nature of these entities:

- Rural utility cooperatives or any other cooperative that requires membership by individuals by virtue of their geographic location within the service boundaries of that cooperative are exempt from the above policy.
- In the case of the Facility Borrower Program, traditional agricultural cooperatives that were formed primarily as marketing, processing, input supply, and service cooperatives whose original purpose was to serve their members as users of the cooperative rather than for the operation, construction, or ownership of renewable fuel production facilities and which only donate land for the facility, make other "passive" investments in the facility, or have a service contract with the facility to provide raw materials or provide other services are exempt from the above policy
- Cooperatives that do not operate a patronage program for the purposes of granting dividends, shares, or other taxable benefits to members are exempt from the above policy.

The Missouri State Treasurer or his designee(s) shall be the sole party responsible for the interpretation of this policy and its application to the Missouri Linked Deposit Program applications received. Financial institutions applying for a Missouri Linked Deposit Program loan shall continue to be responsible for verification of applicants' compliance with this policy. Verification of compliance with the Conflict of Interest policy shall be required at the time of the initial application for a Missouri Linked Deposit Program loan.

**It is anticipated that situations will arise from time to time where an applicant to the Missouri Linked Deposit Program qualifies for participation in the program under the strict letter of the law, yet the applicant's participation would create an appearance of or the potential appearance of impropriety. It is neither feasible nor practical to fashion a rule**

**or rules in advance for dealing with the wide range of such potential situations. Instead, in its initial review of an applicant's eligibility for participation in the program, the lending institution must make its best efforts to determine whether such an appearance or potential appearance of impropriety exists and, in such cases, to give appropriate notice to and make appropriate inquiries of the Missouri State Treasurer's office.**