

Debits	Amounts
Custodial Account Balance Per Bank Statement	
Deposits in Transit to Custodial Account (in mail/bank, but not on bank statement)	
Custodial Account Investments Balance Per Bank Statement	
Proceeds on Hand (funds received from buyers that have not been deposited)	
Proceeds Receivable	
Total Debits	

Credits	Amounts
Total Outstanding Checks (Custodial account checks and drafts that have not cleared the bank)	
Proceeds Due Consignors (for which payment has not been issued)	
Unpaid Expense Items (deducted from consignors' proceeds that remain in custodial account, other than funds due the market)	
Total Credits	

Balance = Total debits – Total credits

The custodial account is “in balance” if the analysis shows total debits equal total credits. The custodial account has an “overage” if total debits exceed total credits. If total credits exceed total debits, the custodial account has a “shortage.” If the analysis reveals a “shortage,” you must take immediate action to correct the Custodial Account.

Typical corrective actions include: (1) transferring funds from the general account or other sources into the custodial account, or (2) drawing on a line of credit to deposit an amount equal to the shortage into the custodial account. You must retain documents proving action(s) have been taken to correct each custodial account shortage.

Investing Custodial Account Funds

Before making any investment of custodial account funds, you must consider that custodial account funds are trust funds held in trust by your business 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. You may invest custodial account funds in interest-bearing savings accounts, or one or more certificates of deposit (CDs), as long as your ability to meet your obligations to your consignors is not impaired. Investments must be properly identified as being part of the custodial account, and maintained in or issued by the same bank as the custodial account. CDs must be made payable to your business as trustee of the custodial funds.

Violations of the P&S Act

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

- *Custodial account shortages*
- *Misusing custodial account funds (for instance, using custodial funds to pay general expenses of the market)*
- *Failure to remit to livestock consignors when due*
- *Failure to timely reimburse the custodial account for uncollected proceeds receivable*
- *Issuing insufficient funds checks or dishonored instruments to consignors*

Penalties for such violations can include: (1) cease and desist orders; (2) suspensions of business operations; (3) civil penalties up to a maximum of \$28,061 per violation, or (4) permanent injunctions, fines, and/or jail sentences for actions taken through the Justice Department.

Please direct comments or questions about this publication to:

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Packers & Stockyards Division



Market Guide to Custodial Accounts

Who must establish and maintain custodial accounts?

As a market agency selling on commission (market) subject to the Packers and Stockyards Act, 1921, (the P&S Act) you must establish and maintain a custodial account.

What is a custodial account?

A custodial account is a trust account. All payments for livestock by buyers and other funds deposited into the custodial account are trust funds (not owned by you). You have a fiduciary responsibility to protect and preserve the funds entrusted to you for livestock consignors.

You must establish the account in a bank and account insured by the Federal Deposit Insurance Corporation (FDIC). You must designate the account and all related documents (e.g. checks, deposits, authorized investments, bank statements, etc.) as “Custodial Account for Shippers’ Proceeds,” or some similar designation, to inform others that you are a fiduciary, and that the account contains trust funds.

You must maintain records disclosing how you are handling the custodial account; name(s) of the consignor(s) having an interest in the account; and the amount due each.

Deposits to the Custodial Account

Upon opening a new custodial account, you should make an initial deposit into the account, unless you can arrange for the bank to honor the first checks presented.

When (1) you, as the market, (2) your owners, officers or employees, or (3) other buyers to whom you have extended credit buy consigned livestock, you 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, you must deposit all money received from buyers for livestock sold on commission into the custodial account. By the close of the 7th day after the sale, you must reimburse the custodial account, in full, for any uncollected proceeds receivable. See the following chart for more guidance on required deposit days.

Monday	Tuesday	Monday
Tuesday	Wednesday	Tuesday
Wednesday	Thursday	Wednesday
Thursday	Friday	Thursday
Friday	Saturday*	Friday
Saturday	Monday	Friday**

On the first deposit day, deposit all funds (a) collected on sale day, (b) due from you, (c) due from an owner, officer, or employee, and (d) due from any buyer to whom you extended credit. On the final deposit day, deposit all funds due from any other buyers.

* If Saturday is a nonbanking business day for your bank, Monday is the next banking business day. If the day of deposit falls on a business holiday, the next banking business day is the deposit date.

** Unless Saturday is a banking business day in the particular location.

Accounts receivable are those receivables, after the close of the next business day after the sale, that are due from (1) you, (2) your owners, officers or employees, or (3) buyers to whom you have extended credit; and those receivables, which after the 7th day following the sale, are due from (4) all other livestock buyers who have not paid you. All other receivables due from the sale of consigned livestock, which were not paid by buyers on the day of purchase, and remain uncollected 1-7

days after the sale date, are considered proceeds receivable. Each category of receivable should be correctly designated in your records.

Proceeds from the Sale of Items Other Than Livestock

You should deposit proceeds from the sale of non-livestock items into your general account, unless these items are sold with livestock, and the buyer issues one check in payment for both. In that instance, you should deposit the proceeds into the custodial account, and transfer the non-livestock amount(s) into the general account. You must draw payment due the consignor for livestock from the custodial account, and payment due for non-livestock items from the general account.

Custodial Account Withdrawals

You can only draw on the custodial account to pay (1) the net proceeds due to consignors or any person you know is legally entitled to payment; (2) lawful charges from consignors’ accounts of sale; and (3) the charges due you as compensation for your services. Lawful charges against a consignment include charges such as trucking, brand, health inspection fees, meat board, etc. that have been deducted from the sale proceeds, and were authorized by law or by the consignor.

You must remit payment for the net proceeds, and a true written account from the sale to each consignor. Markets typically remit payment from the custodial account by check. You should periodically contact consignors holding custodial checks to encourage prompt negotiation, and, when necessary, issue new checks to replace lost or stale dated ones. You must retain voided custodial checks.

At the end of each sale day, you may total the charges that have been deducted from the accounts

of sale and are due you, and transfer those funds to the general account.

Custodial accounts cannot be used to pay your operating expenses such as salaries, rents, supplies repairs, owner withdrawals, etc. Custodial funds cannot be used to make advances on the consignment of livestock or to purchase livestock. Custodial funds cannot be used to finance buyers by allowing them to make payments later than the close of the next business day.

You may borrow money to cover issued custodial checks when they are presented to the bank for payment. However, these funds, as well as funds deposited to correct a shortage in the custodial account, may not be removed until the account has an overage equal or greater than the amount to be withdrawn. Repayment of any loans cannot be made directly from the custodial account.

Analysis of Custodial Account

You must know whether the custodial account you maintain is in proper balance. You should analyze the custodial account at least once a month, and you must retain the analysis and all supporting schedules or documents as part of your business records for at least two full years. Packers and Stockyards Division (PSD) will notify you in writing, if these records should be retained longer, pending the completion of any investigation or proceedings under the P&S Act.

You must submit analyses of the custodial account at least twice annually, showing the status of the custodial account on specific dates, as requested by PSD. PSD reviews the reports, and takes further regulatory action when warranted.

To analyze the custodial account, you must review your records, and determine the custodial account balance, as of the analysis date.