



## Ohio Revised Code

### Section 3906.12 Derivative use plan.

Effective: September 4, 2014

Legislation: Senate Bill 140 - 130th General Assembly

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(A) Prior to an insurer entering into derivative transactions, the board of directors of the insurer investing under this chapter shall approve a derivative use plan.

(B) An insurer shall notify the superintendent of insurance in writing within three days after identifying either of the following:

(1) Any event or occurrence related to an insurer's derivatives use that may lead to a material change to the insurer's policyholder surplus;

(2) Any event or occurrence related to an insurer's derivatives use that, with the passage of time, may lead to a material change to the insurer's policyholder surplus.

(C) Prior to entering into derivative transactions, an insurer shall file with the superintendent a copy of its derivative use plan and internal controls, for informational purposes. The insurer shall keep current the copy of its derivative use plan and internal controls filed with the superintendent. The insurer shall not enter into derivative transactions until thirty calendar days after the date on which the derivative use plan and internal controls is filed with the superintendent. This thirty-calendar-day period is to begin on the date that the superintendent receives the derivative use plan and internal controls.

(D) The superintendent may adopt rules prescribing the form and content of derivative use plans, as well as any internal controls the superintendent considers necessary.

(E) An insurer that engages in hedging transactions or replication transactions shall do both of the following:

(1) Maintain its position in any outstanding derivative instrument used as part of a hedging transaction or replication transaction for as long as the hedging transaction or replication transaction



continues to be effective;

(2) Demonstrate to the superintendent, upon request, that any derivative transaction entered into and involving hedging transaction or replication transaction is an effective hedging transaction or replication transaction. The insurer must be able to demonstrate this at the time the derivative transaction is entered into, and for as long as the transaction continues to be in place.

(F) An insurer may not invest, or use, a derivative instrument for any purpose other than a hedging transaction, income generation, or replication.

(G) All documents provided to the superintendent under this section shall be deemed trade secrets and shall be provided with trade secret protection. Such documents shall also be considered work papers of the superintendent that are subject to section 3901.48 of the Revised Code and are confidential and privileged and shall not be considered a public record, as defined in section 149.43 of the Revised Code. The original documents and any copies of them shall not be subject to subpoena and shall not be made public by the superintendent or any other person, except as otherwise provided in section 3901.48 of the Revised Code.