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	

Custodial Account 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," 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. A market must retain documents proving the action(s) it took to correct each custodial account shortage.

Investing Custodial Account Funds

Before making any investment of custodial account funds, markets must consider that custodial account funds are trust funds, held in trust by the market 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.

A market may invest custodial account funds in interest-bearing savings accounts or one or more certificates of deposit (CDs), as long as the market's ability to meet its obligations to its 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 the market 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; 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 $11,000 per violation, or permanent injunctions, fines, and jail sentences for actions taken through the Justice Department.

This publication does not create or confer any rights for or on any person. Nor does it operate to bind the public. You can use an alternative approach, if the approach satisfies the requirements of the P&S Act, and regulations. See 7 U.S.C. 201(c), 205, 208, and 213(a), and 9 CFR 201.39, 201.42, and 201.43(a), which relate to content in this publication. You may also want to see 9 CFR 203.4 and 203.12

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Market Guide to Custodial Accounts

United States Department of Agriculture

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Who must establish and maintain custodial accounts?

Each market agency selling on commission (market) subject to the Packers and Stockyards Act, 1921, (the P&S Act) 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 the market). The market has a fiduciary responsibility to protect and preserve the funds entrusted to it for livestock consignors.

Each market must establish the account in a bank whose accounts are insured by the Federal Deposit Insurance Corporation (FDIC). The market 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 the market is acting as a fiduciary and that the funds in the account are trust funds.

Each market must maintain records disclosing how it is handling the custodial account; the names of all consignors having an interest in the account; and the amount due to each consignor.

Deposits to the Custodial Account

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

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, the market 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, the market must reimburse the custodial account, in full, for any uncollected proceeds receivable (for instance, full reimbursement for uncollected proceeds of a Monday sale is due the following Monday).

Accounts receivable are those receivables, which, after the close of the next business day after the sale, are due from (1) the market, (2) its owners, officers or employees, or (3) buyers to whom the market has extended credit; and those receivables, which, after the seventh business day after the sale, are due from (4) other buyers who have not paid the market. 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 the market's records.

Proceeds from the Sale of Items Other Than Livestock

A market should deposit proceeds from the sale of non-livestock items into its general account, unless these items are sold with livestock and the buyer issues one check in payment for both. In that instance, the market should deposit the proceeds into the custodial account, and transfer the non-livestock amount(s) into the general account. Then (even if one seller consigned both livestock and non-livestock items for sale) the market must draw payment due the consignor for livestock from the custodial account and payment due for non-livestock items from the general account.

Withdrawals from the Custodial Account

Markets can only draw on 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' accounts of sale; 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.

By the close of the next business day after the sale, markets 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. Markets should periodically contact consignors holding custodial checks to encourage prompt negotiation, and, when necessary, issue new checks to replace lost or stale dated ones. Markets must retain voided custodial checks.

At the end of each sale day, the market may total the charges that have been deducted from the accounts of sale and are due the market, and transfer those funds to the general account. However, it must not use custodial funds to pay the market's own general expenses; pay for non-livestock items; make advances on livestock consigned or purchased; finance livestock buyers or the market's own livestock purchases.

Markets 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.

Analysis of Custodial Account

Each market must know whether the custodial account it maintains is in proper balance. To make that 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 at least two full years. Packers and Stockyards Program (P&SP) will notify the market, in writing, if these records should be retained longer, pending the completion of any investigation or proceedings under the P&S Act. Each market must submit analyses of the custodial account at least twice annually, showing the status of the custodial account on specific dates as requested by P&SP. P&SP reviews the reports, and takes further regulatory action as warranted by what is revealed in these reports.

To analyze the custodial account, a market must review its records, and determine the custodial account balance, as of the analysis date.

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	