Kansas Administrative Regulations

Office of the State Bank Commissioner

Article 23.—Trust Supervision

17-23-3. Administration of fiduciary powers.

(a) The board of directors shall be responsible for the proper exercise of fiduciary powers by the bank or trust company.

(1) All matters pertinent thereto, including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees, and committees utilized by the bank or trust company in the exercise of its fiduciary powers, shall be the responsibility of the board.

(2) In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of any of the bank's or trust company's fiduciary powers it may consider proper to assign to any of the following designees:

(A) Director;

(B) officer;

(C) employee; or

(D) committee.

(b) If a trust committee is designated pursuant to paragraph (a) (2), the trust committee shall supervise the fiduciary activities of a bank or trust company and shall meet the following criteria.

(1) The trust committee shall consist of at least three directors, at least one of which shall not be an officer of the bank or trust company.

(2) The trust committee shall keep complete minutes of its actions and make periodic reports to the board of directors of its actions.

(c) A fiduciary account shall not be accepted without the prior approval of the board, or the board's designee. A written record shall be made of each fiduciary account acceptance and of the relinquishment or closing out of any fiduciary account. Upon the acceptance of an account, a prompt verification shall be made to determine that assets received have been properly placed on accounting records and documented. The board shall also ensure that at least once during every calendar year thereafter, and within 15 months of the last review, all the assets held in fiduciary accounts for which the bank or trust company has investment discretion, are reviewed to determine the advisability of retaining or disposing of these assets.

(d) All officers and employees taking part in the operation of a bank trust department or trust company shall be bonded.

(e) Each bank or trust company exercising fiduciary powers shall designate, employ, or retain legal counsel who shall be readily available to render an opinion upon fiduciary matters and to advise the bank or trust company.

(f) Each bank or trust company exercising fiduciary powers shall adopt written policies and procedures to ensure that the federal securities laws are complied with in connection with any decision or recommendation to purchase or sell any security. These policies and procedures, in particular, shall ensure that bank trust departments and trust companies do not use material inside information in connection with any decision or recommendation to purchase or sell any security.

(Authorized by K.S.A. 2000 Supp. 9-1713; implementing K.S.A. 2000 Supp. 9-1114, K.S.A. 9-1601, K.S.A. 9-1602, and K.S.A. 2000 Supp. 9-2103, as amended by L. 2001, ch. 27, §1; effective Feb. 28, 1994; amended Jan. 18, 2002.)