

58-24a02. Standard of care; portfolio strategy; risk and return objectives; trustee following written directions complies with standard of care. (a) A fiduciary shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the fiduciary shall exercise reasonable care, skill and caution.

(b) A fiduciary's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a fiduciary shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries: (1) General economic conditions;

(2) the possible effect of inflation or deflation;

(3) the expected tax consequences of investment decisions or strategies;

(4) the role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property and real property;

(5) the expected total return from income and the appreciation of capital;

(6) other resources of the beneficiaries who are eligible to receive discretionary payments of trust income or principal assets;

(7) needs for liquidity, regularity of income and preservation or appreciation of capital; and

(8) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A fiduciary shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A fiduciary may invest in any kind of property or type of investment consistent with the standards of this act.

(f) A fiduciary who has special skills or expertise or is placed in a fiduciary capacity in reliance upon the fiduciary's representation that the fiduciary has special skills or expertise, has a duty to use those special skills or expertise.

(g) In acquiring, investing, reinvesting, exchanging, retaining, selling and managing property of a trust which is revocable or amendable, a trustee following written directions regarding the property of the trust that are received by the trustee from the person or persons then having the power to revoke or amend the trust or from the person or persons other than the trustee, to whom the grantor delegates the right to give such written directions to the trustee shall be deemed to have complied with the standards provided in subsections (a) through (d). The trustee is authorized to follow such written directions regardless of any fiduciary obligations to which the directing party may also be subject.

History: L. 2000, ch. 80, § 2; L. 2001, ch. 75, § 10; July 1.