

**58-24a18. Standards for investments by fiduciaries; deviation from instrument or court order not authorized; in investment company or trust.** Nothing contained in K.S.A. 58-24a01, *et seq.*, and amendments thereto, shall be construed as authorizing any departure from, or variation of, the express terms or limitations set forth in any will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers, but:

(a) Whenever any will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers, directs, requires, authorizes or permits the fiduciary to invest in securities of a certain kind or class, the fiduciary, in the absence of an express provision to the contrary, may buy, hold and sell such securities either directly or in the form of shares of or other interests in any open-end or closed-end management type investment company or investment trust registered under the investment company act of 1940, or any common trust fund of a state or national bank or trust company as authorized by K.S.A. 9-1609, and amendments thereto, if the portfolio of such investment company, investment trust or common trust fund is limited to securities of the designated kind or class and to repurchase agreements fully collateralized by such securities.

(b) The fact that such bank or trust company or an affiliate of the bank or trust company provides services to the investment company or investment trust such as that of an investment advisor, custodian, transfer agent, registrar, sponsor, distributor, manager or otherwise and is receiving reasonable remuneration for those services, shall not preclude such bank or trust company from investing or reinvesting in the securities of an open-end or closed-end management investment company or investment trust registered under the investment company act of 1940 (15 U.S.C. section 80a-1 *et seq.*) as amended.

With respect to any fiduciary account funds so invested, the bank or trust company or an affiliate of the bank or trust company shall conspicuously disclose by statement, prospectus, or otherwise to all current income beneficiaries of a fiduciary account the rate, formula or other method by which the remuneration for those services, provided to the investment company or investment trust, is determined. The investment into such investment company or investment trust must be in the best interest of the beneficiary of the fiduciary account, must meet the prudent investor standard, as defined in K.S.A. 58-24a02, and amendments thereto, and the total amount of all fees, charges and compensation derived from the fiduciary account, and remuneration for services provided to the investment company or investment trust, by the bank or trust company or an affiliate of the bank or trust company shall be reasonable.

**History:** L. 2001, ch. 75, § 3; July 1.