

2021 Kansas Statutes

9-2307. Report to commissioner; safety and soundness. (a) A fiduciary financial institution shall make a report to the commissioner pursuant to the provisions of K.S.A. 9-1704, and amendments thereto. In making such a report, a fiduciary financial institution shall:

- (1) Report the fiduciary financial institution's fidfin transactions pursuant to generally accepted accounting principles; and
- (2) calculate such fiduciary financial institution's capital solvency by including the value of all tangible and intangible assets owned by the fiduciary financial institution, regardless of use.

(b) In evaluating the safety and soundness of a fiduciary financial institution, the state banking board and the commissioner shall:

- (1) Consider that the collateral or underlying assets associated with fidfin transactions are volatile in nature and that such volatility has been accepted by the members and customers of the fiduciary financial institution;
- (2) respect the form, treatment and character of fidfin transactions under the laws of this state notwithstanding the treatment or characterization of such transactions under generally accepted accounting principles or for tax purposes;
- (3) evaluate the soundness of a fiduciary financial institution based on whether available capital, including the agreement of the fiduciary financial institution's members to contribute capital pursuant to K.S.A. 2021 Supp. 9-2305, and amendments thereto, exceeds the fiduciary financial institution's obligations, determined in accordance with generally accepted accounting principles; and
- (4) evaluate the safety of a fiduciary financial institution based on the background and qualifications of such fiduciary financial institution's executive officers and directors and the internal controls and audit processes enacted by the fiduciary financial institution to ensure adherence to its policies and procedures.

(c) Profitability shall not be a consideration in evaluating the safety and soundness of a fiduciary financial institution if sufficient capital and equity exist in the business, including, without limitation, membership capital, surplus, undivided profits and commitments by members to contribute additional capital to the fiduciary financial institution pursuant to K.S.A. 2021 Supp. 9-2305, and amendments thereto, to satisfy the fiduciary financial institution's obligations.

History: L. 2021, ch. 80, § 7; July 1.