

04 NCAC 16K .0104 ADMINISTRATION OF TRUST POWERS

- (a) The board of directors shall be responsible for the exercise of fiduciary powers by the savings institution. All matters pertinent 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 savings institution in the exercise of its fiduciary powers, shall be the responsibility of the board of directors. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of the savings institution's trust powers to directors, officers, employees, or committees.
- (b) No fiduciary account shall be accepted without the prior approval of the board of directors, officers, or committees to whom the board of directors may have assigned the performance of that responsibility. A written record shall be made of the acceptances and of the relinquishment or closing out of all fiduciary accounts. Upon the acceptance of an account for which the savings institution has investment responsibilities, a review of the assets shall be made. The board of directors shall also ensure that at least once during every calendar year and within 15 months of the last review, all the assets in each fiduciary account over which the savings institution has investment responsibilities shall be reviewed to determine the advisability of retaining or disposing of such assets. The board of directors shall act to ensure that all investments have been made in accordance with the terms and purposes of the governing instrument.
- (c) The trust department may use personnel and facilities of other departments of the savings institution, and other departments of the savings institution may use personnel and facilities of the trust department only to the extent not prohibited by North Carolina law.
- (d) Every savings institution exercising trust 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. The policies and procedures, shall ensure that the savings institution's trust department shall not use material inside information in connection with any decision or recommendation to purchase or sell any security.
- (e) Every savings institution exercising fiduciary powers shall designate, employ, or retain legal counsel who shall be available to review fiduciary matters and to advise the savings institution and its trust department.
- (f) The directors, officers, and employees of a savings institution engaged in the operation of a trust department shall acquire additional bond coverage as the Commissioner of Banks may require.
- (g) The savings institution shall comply with rules applicable to State Trust Entities in 04 NCAC 03D and the FDIC Statement of Principles on Trust Department Management, which is hereby incorporated by reference and shall include any later amendments and editions of the referenced material available free of charge, at the time of publication, at: <https://www.fdic.gov/news/news/inactivefinancial/1998/fi198100b.html>.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.