CHAPTER 102

MUTUAL TRUST INVESTMENT COMPANIES

§1021. Definition

As used in this chapter, the term "mutual trust investment company" means a corporation which is an investment company as defined by an Act of Congress entitled "Investment Company Act of 1940", as amended; and incorporated in compliance with this chapter to constitute a medium for the common investment of trust funds held in a fiduciary capacity, and for true fiduciary purposes, either alone or with one or more cofiduciaries, by State banks with trust powers, trust companies and national banks with trust powers which are located in this State. [PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW).

§1022. Authority to incorporate

Any 5 or more state banks with trust powers, trust companies and national banks with trust powers located in this State are authorized to cause a mutual trust investment company to be organized and incorporated, subject to the approval of the superintendent and subject to such regulations as he may prescribe. [PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW).

§1023. Application of general corporation law; articles of incorporation

1. Subject to Title 13-C. Except as otherwise provided in this chapter, such a mutual trust investment company must be incorporated under and is subject to Title 13-C.
[RR 2001, c. 2, Pt. B, §19 (COR); RR 2001, c. 2, Pt. B, §58 (AFF).]

2. Incorporators. The incorporators subscribing to and acknowledging the articles of incorporation shall consist of 5 or more persons who are officers or directors of the banks and trust companies causing such mutual trust investment company to be incorporated.
[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). RR 2001, c. 2, §B19 (COR). RR 2001, c. 2, §B58 (AFF).

§1024. Corporate powers; stock ownership

1. Ownership. The stock of a mutual trust investment company shall be owned only by State banks with trust powers, trust companies and national banks with trust powers located in this State, acting as fiduciaries, and their individual cofiduciaries, if any, but may be registered in the name of their nominee or nominees.
[PL 1975, c. 500, §1 (NEW).]

2. Transfer or assignment. The stock of a mutual trust investment company shall not be subject to transfer or assignment except to the mutual trust investment company or to a fiduciary or cofiduciary which becomes successor to the stockholder or its nominee; provided that such successor fiduciary or cofiduciary or its nominee is qualified to hold such stock under subsection 1.
[PL 1975, c. 500, §1 (NEW).]

3. Directors. A mutual trust investment company shall have not less than 5 directors who need not be stockholders but shall be officers or directors of banks or trust companies located in this State.

[PL 1975, c. 500, §1 (NEW).]

4. Investments; assets. A mutual trust investment company may invest its assets only in those investments in which a trustee may invest under the laws of this State, and its assets shall constitute personal property held in trust. Such company shall make no investment in:

A. The note of an individual or individuals, whether or not it is secured; [PL 1975, c. 500, §1 (NEW).]

B. The note, bond or other obligation of any firm, corporation or other issuer if the total original issue of such notes, bonds or other obligations is less than $500,000; [PL 1975, c. 500, §1 (NEW).]

C. Any stocks, bonds or other obligations issued or guaranteed by any one firm, corporation or other issuer in excess of 10% of the total assets of the mutual trust investment company, as increased by the proposed investment; provided that this limitation shall not apply to obligations of the United States, or for the payment of the principal and interest of which the full faith and credit of the United States is pledged; and [PL 1975, c. 500, §1 (NEW).]

D. Shares of stock of any one corporation which would cause the total number of such shares held by the mutual trust investment company to exceed 10% of the number of such shares outstanding. [PL 1975, c. 500, §1 (NEW).]

[PL 1975, c. 500, §1 (NEW).]

5. Stock acquisition. A mutual trust investment company may acquire, purchase or redeem its own stock and shall by means of contract or of its bylaws bind itself to acquire, purchase or redeem its own stock, but it shall not vote upon shares of its own stock.

[PL 1975, c. 500, §1 (NEW).]

6. Responsibility, liability, accountability. A mutual trust investment company shall not be responsible for ascertaining the investment powers of any fiduciary who may purchase its stock, and shall not be liable for accepting funds from a fiduciary in violation of the restrictions of the will, trust indenture or other instrument under which such fiduciary is acting in the absence of actual knowledge of such violation, and shall be accountable only to the superintendent and the fiduciaries who are the owners of its stock.

[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW).

§1025. Purchase of stock by fiduciaries; authority and restrictions

1. Investment in shares of stock. State banks with trust powers, trust companies and national banks with trust powers located in this State, acting in a fiduciary capacity and for true fiduciary purposes, either alone or with one or more individual cofiduciaries, may, if exercising the care of a prudent investor and with the consent of such individual cofiduciary or cofiduciaries, if any, invest and reinvest funds held in such fiduciary capacity in the shares of stock of a mutual trust investment company except where the will, trust indenture or other instrument under which such fiduciary is acting prohibits such investment. No investment in the stock of a mutual trust investment company may be made by any bank or trust company which operates its own common trust fund under the laws of this State. The stock shall not be subject to Title 32, chapter 13.

[PL 1975, c. 500, §1 (NEW).]

2. Limitation. No funds of any estate, trust or fund shall be invested in the stock of a mutual trust investment company in an amount which would result in any bank or trust company having an aggregate holding in excess of 25% of the total issued and outstanding stock of such mutual trust investment company, as increased by the amount of the proposed investment. In the event that by reason

of reduction of the holdings of stock by other banks or trust companies, mergers of banks or trust companies, or for other reasons, the aggregate holding of stock in the mutual trust investment company by any bank or trust company shall become greater than 25% of the total issued and outstanding stock, such bank or trust company may retain the stock then held by it but may not make further investments in such stock until its aggregate holdings have become less than such 25%.
[PL 1975, c. 500, §1 (NEW).]

3. Responsibility. A mutual trust investment company shall be permitted to rely on the written statement of any bank or trust company purchasing its stock that the purchase complies with the foregoing requirements, except that the mutual trust investment company shall be responsible to see that the limit on the holding of stock by any one bank or trust company as provided in subsection 2 is not exceeded.
[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW).

§1026. Powers of the superintendent

1. Rules and regulations. The superintendent shall have authority to adopt and issue regulations to govern the conduct and management of all mutual trust investment companies formed pursuant to this chapter, and to prescribe, among other things:

A. The records and accounts to be kept by the mutual trust investment company; [PL 1975, c. 500, §1 (NEW).]

B. The methods and standards to be employed in establishing the value of the shares of stock in the mutual trust investment company and of its assets; and [PL 1975, c. 500, §1 (NEW).]

C. The procedure to be followed in the sale and redemption of its stock. [PL 1975, c. 500, §1 (NEW).]
[PL 1975, c. 500, §1 (NEW).]

2. Examination. The superintendent shall at least once in each calendar year, and whenever the superintendent deems it necessary or expedient, examine every such mutual trust investment company. On every such examination of a mutual trust investment company, the superintendent shall make inquiry as to its financial condition, the policies of its management, whether it is complying with the laws of this State and such other matters as the superintendent may prescribe. The reasonable expenses of each examination of a mutual trust investment company pursuant to this section must be charged to the company in accordance with the provision of section 214.
[RR 2009, c. 2, §9 (COR).]

3. Power and authority. In the enforcement of this chapter and the fulfillment of his responsibilities hereunder, the superintendent shall have the same power and authority over and with respect to mutual trust investment companies and their directors, officers and employees, including the power to compel the attendance of witnesses and the production of books, records, documents and testimony, the power to require the submission to him of reports and information in such form and at such times as he may prescribe, the power to direct the discontinuation of any practice which he may consider illegal, unauthorized or unsafe; and all other powers and authorities, whether or not specifically mentioned herein, as are given the superintendent by the laws of this State with respect to financial institutions in the same manner and with like effect as if mutual trust investment companies were expressly named therein.
[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). RR 2009, c. 2, §9 (COR).

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