Trustees Must Adhere to Strict Fiduciary Duties

The Uniform Prudent Investor Act (UPIA) doesn't contain the word "trustee" or "fiduciary" in its title, but this act instructs trustees on the duties they must perform in order to meet the fiduciary duties they assume once they become a trustee for a trust. When trusts contain a variety of investments or when they contain assets worth a large amount of money, these duties can seem time-consuming and complicated. A systematic process for making sure these fiduciary duties are met is one way to ensure compliance with the UPIA.

Each state has laws that establish the standards trustees must follow when managing a trust's assets. A trustee who doesn't meet these standards can be held personally responsible for trust losses. Therefore, in order to maximize benefits for the trust beneficiaries, and to reduce personal liability for trust losses, trustees need to:

- Understand the objectives and terms of the trust. Are the trust assets designed to provide for estate liquidity, contribute to a charitable organization, or perhaps care for a disabled child?
- Develop a reasonable investment strategy. How much financial risk is the trust willing to take to reach its goals?
- Adopt a written management statement. If the trust contains a life insurance policy, this becomes a policy management statement and describes what type of coverage is expected. Should the policy last longer than the life expectancy of the insured? Should it be a paid-up policy or will the trust expect to pay premiums on the policy for a number of years?
- Implement the strategy with the appropriate products. Once the objectives and terms of the trust are understood, what assets should the trust own to meet them?
- Regularly review policies and investments and make changes as needed. This process should be documented.

Some trusts own a complex mix of insurance policies, property, stock portfolios, etc., while other trusts may own only one or two assets. Either way, the process outlined above is important in meeting the fiduciary duty of being the trustee. Section 9 of the UPIA allows a trustee to delegate investment and management functions to an objective third-party professional. When this is done, the trustee is not liable for the decisions or actions of that professional, but is still responsible for periodically reviewing any third-party's performance.

Attorneys, trust officers and non-professional trustees can benefit by working with a trust advisor who specializes in a specific asset—for example, life insurance. This trust advisor will bring industry-specific knowledge and experience to the case to help ensure the trust is managed properly and according to the law.