

While virtually all kinds of property may be placed in trust, the most common are stocks and bonds, notes and mortgages, cash and real property. Trusteed property also may include established businesses, newspapers, mines, factories, patent rights, licenses to manufacture, and art collections. In administering a trust, the trustee must be guided by the applicable State law and the provisions of the trust instrument.

Insofar as investment powers are concerned, there are applicable State trust investment statutes, court decisions, and of course the wishes of the trustor as expressed in the trust instrument. The general effect of investment powers and limitations is to impose on a fiduciary a high degree of responsibility for investment decisions; failure to invest properly can result in a breach of trust and a beneficiary or remainderman's holding the trustee liable for losses.

In recent years there has been a tendency for States to move toward the prudent-man rule as the proper philosophical concept in making trust investments. In those States which have statutes regulating investments by fiduciaries in more detail than under the prudent-man rule, there are two basic types of statutes. Some are mandatory which provide, in effect, that trustees must invest trust funds in accordance with the terms of the statute unless the terms of the trust provide otherwise. Others are permissive, providing, in effect, that trustees may invest in accordance with the statute unless the terms of the trust provide otherwise. In some States the statutes set forth statistical and other requirements which securities must satisfy to qualify as legal investments. In other States the legislature grants power, usually to the State bank supervisory authority, to issue approved lists of securities for trust investment. As a result of all of the foregoing, it can be stated in general that fiduciaries are permitted to invest in corporate bonds and stocks, U.S. Government securities, real estate and real estate mortgages, and the securities of State and local governments. This is to say that, insofar as the securities issued by State and local governments are concerned, they are legal for trusts unless ruled out by the trust instrument. It should be noted that in investing trust assets trust departments may have complete discretion to operate under the terms of the trust or may have to consult a co-trustee or co-trustees or other adviser.

The specific factors which enter into investment decisions by trust departments will be discussed below in the section on portfolio considerations.

VOLUME OF TRUST ASSETS

The amount of assets in personal trusts has never been accurately reported over a period of time. Table 2 indicates the amount and types of assets held in personal trusts in 1963, as revealed by the survey done for the Trust Division of the American Bankers Association, and the amounts and types of trust assets in 1963 and 1964, as shown by the compilation of the Comptroller of the Currency.