

tive investment funds. The responsibility for the proper exercise of fiduciary powers is placed in the board of directors of the bank. All matters relating thereto, including the determination of policies, the investment and disposition of property held in a fiduciary responsibility, and the direction and review of the actions of all officers and employees in the exercise of its fiduciary duties are the responsibility of the board.

All member banks are subject to examination by the Federal Reserve examining staff. State banking departments examine trust departments of State banks. The usual scope of audit functions involving principal, income, and expenses is covered. Further, the examination by State examiners includes among other items the following:

- (1) Investigation of matters involving ineligible investments, self-dealing, holdings of stock in close corporations, and so forth.

- (2) Verification that investment reviews are made by the board of directors and the recording of minutes for each trust fund.

- (3) Verification of any objections to filing of trustees' reports.

- (4) A check on any threatened litigation against the bank based on its fiduciary activities.

- (5) Verifications of commissions charged to the trust.

Section 6033 of the Income Tax Regulations requires the bank trustee to file an annual return with the District Director of Internal Revenue. The Welfare and Pension Plans Disclosure Act requires, under part IV of Annual Form D-2, the submission of financial data for trust funds.

Typically, the modern trust agreement gives the bank trustee broad powers of investment. Some companies, however, prefer to place investment restrictions in the trust agreement. Whatever the restrictions may be, the trust funds deposited with a bank are protected against a breach of trust through elaborate internal and governmental audits and controls. In some instances, a company may choose to assume the responsibility for the investment of the funds. We believe that the company, in exercising the investment function under a trust instrument, assumes a fiduciary responsibility and its acts must be judged by the same high standards as a bank.