

I am an elected trustee for a town trust that was given to our town many years ago. Currently, the trust is invested in only a few Vermont banks and corporations. I am concerned about this lack of diversification, but I am not sure what I am allowed to do with these funds under state law. How can we invest town trust monies properly?

The first place to look for guidance is in the actual trust document. Frequently, one who places money in a trust (a “settlor”) places conditions on how and where such trust monies can be invested.

In the absence of express guidelines, there are a few other rules that trustees should be aware of. A trustee of public funds must act as a “prudent investor.” 9 V.S.A. § 4652. This means a trustee is in charge of public monies and must invest such monies in the best interests of the public, in securities that a reasonable person would invest in, and as a fiduciary.

A fiduciary is “one who owes to another the duties of good faith, trust, confidence, and candor.” *Black’s Law Dictionary* (7th ed. 1999). The rule of thumb is that a trustee must invest trust monies carefully because *it is not his or her money to invest*. It belongs to someone else (here, the public).

That said, the field of potential investments is relatively wide open. (There are some corporations that have been in the news recently with which you may want to refrain from investing.) There is a section in the Vermont Statutes that deals directly with this issue, and it allows a trustee a fair amount of discretion in investing public monies: “The trustees shall apply the income of such estate to the purpose for which it is held, and deeds or contracts made by them shall be in the name of the town.” 24 V.S.A. § 2432. The law goes on to name specifically those investment vehicles it deems appropriate for investment of town funds, including “United States savings bonds, municipal bonds, savings institutions and trust companies in this state . . . or in the shares of an investment company, or investment trust, which is registered under the federal investment company act of 1940 . . . if such mutual investment fund has been in operation for at least ten years and has net assets of at least \$10,000,000 . . .” *Id.*

It is important for a trustee of town funds to read the statute carefully; while it is relatively expansive in the discretion it gives to trustees, it also sets a few guidelines that trustees should be aware of.

VLCT News, October 2002