exclusively for the collective investment and reinvestment of money contributed to the fund by the bank, or by one or more affiliate banks, in its capacity as trustee, executor, administrator, guardian, or custodian under a uniform gifts to minors act.

(2) A fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or other trusts that are exempt from Federal income taxation under the Internal Revenue Code.

(i) A national bank may invest assets of retirement, pension, profit sharing, stock bonus or other trusts exempt from Federal income taxation and that the bank holds in its capacity as trustee in a collective investment fund established under paragraph (a)(1) or (a)(2) of this section.

(ii) A national bank may invest assets of retirement, pension, profit sharing, stock bonus or other employee benefit trusts exempt from Federal income taxation and that the bank holds in *any* capacity (including agent), in a collective investment fund established under paragraph (a)(2) of this section if the fund itself qualifies for exemption from Federal income taxation.

(b) *Requirements.* A national bank administering a collective investments fund authorized under paragraph (a) of this section shall comply with the following requirements:

(1) *Written plan.* The bank shall establish and maintain each collective investment fund in accordance with a written plan approved by a resolution of the bank's board of directors or by a committee thereof (Plan). The bank shall make a copy of the Plan available for public inspection at its main office during all banking hours, and shall provide a copy of the Plan to any person who requests it. The Plan must contain appropriate provisions, not inconsistent with this part, regarding the manner in which the bank will operate the fund, including provisions relating to:

(i) Investment powers and policies with respect to the fund;

(ii) Allocation of income, profits, and losses;

(iii) Fees and expenses that will be charged to the fund and to participating accounts;

(iv) Terms and conditions governing the admission and withdrawal of participating accounts;

(v) Audits of participating accounts;

(vi) Basis and method of valuing assets in the fund;

(vii) Expected frequency for income distribution to participating accounts;

(viii) Minimum frequency for valuation of fund assets;

(ix) Period following each valuation date during which the valuation must be made;

(x) Bases upon which the bank may terminate the fund; and

(xi) Any other matters necessary to define clearly the rights of participating accounts.

(2) *Fund management.* A bank administering a collective investment fund shall have exclusive management thereof, except as a prudent person might delegate responsibilities to others.[2]

(3) *Proportionate interests.* Each participating account in a collective investment fund must have a proportionate interest in all the fund's assets.

(4) *Valuation*—(i) *Frequency of valuation.* A bank administering a collective investment fund shall determine the value of the fund's assets at least once every three months. However, in the case of a fund that is invested primarily in real estate or other assets that are not readily marketable, the bank shall determine the value of the fund's assets at least once each year.

(ii) *Method of valuation*—(A) *In general.* Except as provided in paragraph (b)(4)(ii)(B) of this section, a bank shall value each fund asset at market value as of the date set for valuation, unless the bank cannot readily ascertain market value, in which case the bank shall use a fair value determined in good faith.

(B) *Short-term investment funds.* A bank may value a fund's assets on a cost, rather than market value, basis for purposes of admissions and withdrawals, if the Plan requires the bank to:

(*1*) Invest at least 80 percent of the fund's assets in bonds, notes, or other evidences of indebtedness that are payable on demand (including variable amount notes), or that have a maturity date not exceeding 91 days from the date of purchase;

(*2*) Accrue on a straight-line basis the difference between the cost and anticipated principal receipt on maturity;

(*3*) Hold the fund's assets until maturity under usual circumstances; and

(*4*) Ensure that, after effecting admissions and withdrawals, at least 20 percent of the value of the remaining fund assets are cash, demand obligations, or assets that will mature on the fund's next business day.

(5) *Admission and withdrawal of accounts*—(i) *In general.* A bank administering a collective investment fund shall admit an account to or withdraw an account from the fund only on the basis of the valuation described in paragraph (b)(4) of this section.

(ii) *Prior request or notice.* A bank administering a collective investment fund may admit an account to or withdraw an account from a collective investment fund only if the bank has approved a request for or notice of intention of taking that action on or before the valuation date on which the admission or withdrawal is based. No requests or notices may be canceled or countermanded after the valuation date.

(iii) *Prior notice period for withdrawals from funds with assets not readily marketable.* A bank administering a collective investment fund described in paragraph (a)(2) of this section that is invested primarily in real estate or other assets that are not readily marketable, may require a prior notice period, not to exceed one year, for withdrawals.

(iv) *Method of distributions.* A bank administering a collective investment fund shall make distributions to accounts withdrawing from the fund in a manner consistent with applicable law.

(v) *Segregation of investments.* If an investment is withdrawn in kind from a collective investment fund for the benefit of all participants in the fund at the time of the withdrawal but the investment is not distributed ratably in kind, the bank shall segregate and administer it for the benefit ratably of all participants in the collective investment fund at the time of withdrawal.

(6) *Audits and financial reports*—(i) *Annual audit.* At least once during each 12-month period, a bank administering a collective investment fund shall arrange for an audit of the collective investment fund by auditors responsible only to the board of directors of the bank.[3]

(ii) *Financial report.* At least once during each 12-month period, a bank administering a collective investment fund shall prepare a financial report of

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[2] If a fund, the assets of which consist solely of Individual Retirement Accounts, Keogh Accounts, or other employee benefit accounts that are exempt from taxation, is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), the fund will not be deemed in violation of paragraph (b)(2) of this section as a result of its compliance with section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)).

[3] If a fund, the assets of which consist solely of Individual Retirement Accounts, Keogh Accounts, or other employee benefit accounts that are exempt from taxation, is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), the fund will not be deemed in violation of paragraph (b)(6)(i) of this section as a result of its compliance with section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)), if the bank has access to the audit reports of the fund.