

355.8-103 Rules for determining whether certain obligations and interests are securities or financial assets.

- (1) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.
- (2)
 - (a) An "investment company security" is a security.
 - (b) "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered.
 - (c) Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.
- (3)
 - (a) An interest in a partnership or limited liability company is not a security unless:
 1. It is dealt in or traded on securities exchanges or in securities markets;
 2. Its terms expressly provide that it is a security governed by this article;
or
 3. It is an investment company security.
 - (b) However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.
- (4)
 - (a) A writing that is a security certificate is governed by this article and not by Article 3 of this chapter, even though it also meets the requirements of that article.
 - (b) However, a negotiable instrument governed by Article 3 of this chapter is a financial asset if it is held in a securities account.
- (5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.
- (6) A commodity contract, as defined in KRS 355.9-102(1), is not a security or a financial asset.
- (7) A document of title, as defined in KRS 355.1-201(2), is not a financial asset unless KRS 355.8-102(1)(i)1.c. applies.
- (8) A controllable account, controllable electronic record, or controllable payment intangible is not a financial asset unless KRS 355.8-102(1)(i)1.c. applies.

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