REVOCABLE TRUST ACCOUNTS (12 C.F.R. § 330.10)

Disclaimer

This section explains FDIC insurance coverage for revocable trust accounts and is not intended as estate planning advice or guidance. Depositors should contact a legal or financial advisor for assistance with estate planning.

I. Definition

A revocable trust account is a testamentary deposit account owned by one or more people expressing the intent that upon the death of the owner(s), the deposited funds will pass to one or more named beneficiaries. A revocable trust account can be revoked, terminated, or amended at the discretion of the owner(s). The ability to amend a revocable trust account includes the right to change beneficiaries and beneficiary allocations.

FDIC deposit insurance regulations provide for two types of revocable trusts — informal revocable trusts and formal revocable trusts:

1. **Informal Revocable Trusts** – often called payable-on death ("POD"), in-trust-for ("ITF"), as trustee for ("ATF"), or *Totten trust* accounts – are created when an account owner signs an agreement, which is usually part of the IDI's signature card, directing the IDI to transfer the funds in the account to one or more named beneficiaries upon the owner's death.

2. **Formal Revocable Trusts –** known as living or family trusts – are written agreements created for estate planning purposes. The owner controls the deposits and other assets in the trust during his or her lifetime. The agreement establishes that the deposits are to be paid to one or more identified beneficiaries after the owner's death. The trust generally becomes irrevocable upon the owner's death. Typically, formal revocable trust agreements will refer to the trust owner as the grantor, settlor, trustor, maker or donor.

The FDIC applies the same set of regulations in calculating insurance coverage for both informal and formal revocable trust deposits. All funds that a depositor holds in informal and formal revocable trust accounts at an IDI are added together for deposit insurance purposes, and the insurance limit is applied to the combined total. Please note that formal trusts often describe the distribution of assets other than funds in the IDI. The FDIC rules strictly pertain to reviewing the trust agreement to determine how the funds in the deposit account will be distributed after the death of the owner(s). FDIC does not consider nondeposit assets in calculating deposit insurance coverage.

II. Insurance Limit

In general, the owner of a revocable trust account is insured up to $250,000 per each primary beneficiary. The exact amount of coverage depends on the number of beneficiaries.

When the number of beneficiaries is five or fewer, the calculation of coverage is simple: the number of owners multiplied by the number of beneficiaries multiplied by $250,000. If the product is greater than the aggregate balance of the accounts, the funds will be fully insured. If the product is less than the aggregate balance of the accounts, the excess will be uninsured.

When the number of beneficiaries is greater than five, and the aggregate balance of the accounts exceeds five times $250,000 (i.e., $1,250,000), the calculation of coverage is more complicated. First, in accordance with the terms of the trust agreement, the funds are allocated to the various beneficiaries. Second, the insurance limit (the SMDIA) is applied separately to each beneficiary's interest. To the extent that any beneficiary's interest exceeds the SMDIA, the excess will be uninsured. At a minimum, however, the accounts (with more than five beneficiaries) will be fully insured up to five times $250,000 (i.e., $1,250,000).

III. Requirements

1. Trust Relationship Must be Reflected in the Account Title

Deposit insurance regulations mandate that the testamentary intent of a revocable trust account be manifested in the "title" of the account. In other words, the "title" must reflect that upon the revocable trust owner's death the account funds shall belong to one or more beneficiaries. For informal revocable trusts, this titling requirement can be satisfied by using commonly accepted terms such as, but not limited to, "in trust for," "as trustee for," "payable-on-death to," or any acronym therefor (e.g., "ITF," "ATF" or "POD"). For formal revocable trusts, the accounts can be titled in the name of the trust or by simply having the word "trust" in the title.

For purposes of meeting this requirement, the term "title" includes the electronic deposit account records of the IDI. For informal revocable trusts, the FDIC will recognize an account as a revocable trust account if the IDI's electronic deposit account records identify (through a code or otherwise) the account as a revocable trust account. In other words, IDIs can meet the titling requirement by using an electronic code signifying the deposit as a POD account.

2. Beneficiaries Must be Identified in the IDI Records

FDIC regulations require that the specific names of the beneficiaries must be reflected in the IDI's account records. This does not mean that the beneficiary names must be reflected in the account name or caption; provided that the name is in the IDI's records, i.e., on the signature card or account agreement, this requirement is deemed satisfied. **This requirement applies solely to informal revocable trust accounts. It does not apply to formal living trust accounts, where the beneficiaries are identified in the trust agreement.**

3. Beneficiaries Must be Eligible

The rules provide that a deposit can be insured as a revocable trust account if either the revocable trust instrument or the deposit account records identify and designate an **eligible** beneficiary.

An eligible beneficiary <u>must</u> be one of the following:

a) a natural person (human being);

b) a charitable organization (that is recognized as such under the Internal Revenue Code); or

c) a non-profit entity (that is recognized as such under the Internal Revenue Code).

Eligible beneficiaries identified in a formal revocable trust document or, in the case of an informal revocable trust, in the IDI's deposit account records, are the basis for determining the maximum deposit insurance coverage available for an owner's revocable trust account(s).

In some trusts, grantors designate beneficiaries which are not eligible. Those beneficiaries generally fall within two categories: ineligible and invalid. The distinction between the two is as follows: an ineligible beneficiary does not meet the requirements of an eligible beneficiary but <u>is still</u> able to legally receive the bequest under state law. Ineligible beneficiaries include, but are not limited to, for-profit business entities and pet trusts. For purposes of calculating deposit insurance coverage, when a beneficiary is ineligible, the result is a reversion of the funds to the single account of the grantor.

Conversely, an invalid beneficiary is unable to legally receive the bequest under state law. For example, under some state laws, a pet might be an invalid beneficiary. Depositors should consult an attorney with respect to specific state laws.

For purposes of calculating deposit insurance coverage, bequests to invalid beneficiaries are ignored and funds are allocated to the remaining beneficiaries.

Reversion of funds

Deposit insurance regulations provide that if a beneficiary does not meet the definition of an eligible beneficiary, the funds corresponding to that beneficiary shall not be insured as revocable trust deposits, but as the single ownership funds of the owner(s).

Example 7: One owner of a living trust account with one ineligible beneficiary and a single account	
Account Title	**Balance**
Jack Smith Living Trust (the sole remaining beneficiary is a pet trust)	$200,000
Jack Smith	$100,000

Example 7

Facts:

Jack Smith is the owner of the Jack Smith Living Trust that was established twenty years ago and designated his parents as the primary beneficiaries. Jack's parents are both now deceased, leaving no living beneficiaries and a pet trust as the sole beneficiary of the trust. Jack establishes at his local IDI an account in the name of the Jack Smith Living Trust with a balance of $200,000. At the same IDI, Jack also holds a single account titled in his name with a balance of $100,000. These two accounts are the only deposits owned by Jack at the IDI. Jack is inquiring about his deposit insurance coverage.

Rule:

When a revocable trust names an ineligible beneficiary, the funds allocated to that beneficiary are insured as the single ownership funds of the owner(s).

Answer:

Although a pet trust may be a valid trust beneficiary under applicable state law, it is not an eligible beneficiary for deposit insurance purposes. FDIC regulations, therefore, require that the full $200,000 balance of the Jack Smith Living Trust account be insured as Jack's single account. Since Jack also has a $100,000 single account in his name at the same IDI, his combined deposits are not fully insured. Instead, his single accounts are insured for $250,000 and uninsured for $50,000.

Examples of invalid beneficiaries:

a) a fictional person;

b) any object or entity that does not meet the requirements of an eligible beneficiary and would not be eligible to receive the bequest under state law when the owner dies.

Reversion of funds

If an invalid beneficiary designation is made, the FDIC will ignore the designation in calculating deposit insurance coverage and insure the funds in the ownership category that applies to the owner(s).

Example 8: **POD account with two owners and one invalid beneficiary; one single account**	
Account Title	**Balance**
Jane and Robert Smith ITF Sherlock Holmes	$40,000
Jane Smith	$220,000

Example 8

Facts:

Jane and Robert Smith are owners of a $40,000 POD account that designates as beneficiary Sherlock Holmes, their favorite character from a book.

At the same IDI where that POD account is held, Jane Smith also has a single ownership account with a balance of $220,000. These two accounts are the only deposits owned by Jane and Robert at the IDI.

Rules:

(a) When a revocable trust names an invalid beneficiary, allocation of funds to that beneficiary is deemed to have never occurred.

(b) When an account does not meet the requirements of a particular category, the funds will revert to the single account category. There is no six-month grace period for deceased beneficiaries.

Answer:

Since Sherlock Holmes is a fictional character, he is neither a valid beneficiary under applicable state law nor an eligible beneficiary for deposit insurance purposes. Therefore, the FDIC will ignore the POD designation and view it as if it had never occurred. As a result, with no designated beneficiary, the account will not be insured as a revocable trust account. Instead the funds will be insured based solely on the actual account ownership. Since the account is owned jointly by Jane and Robert with the two of them having equal withdrawal rights and, from a deposit insurance perspective, naming no beneficiaries, the POD account will be insured as a joint ownership account. Moreover, since neither Jane nor Robert have any other joint deposits at the IDI, the account is eligible for up to $500,000 in deposit insurance coverage as a joint account and is fully insured. Jane's $220,000 single account at the same IDI is fully insured, since it is the only single account owned by Jane at that IDI.

Account Title	Owners	Ownership Category	Account Balance	Insured Amount	Uninsured Amount
Jane and Robert Smith	Jane and Robert Smith	Joint account	$40,000	$40,000	$0
Jane Smith	Jane Smith	Single account	$220,000	$220,000	$0

When co-owners of a revocable trust account are the sole beneficiaries

FDIC regulations provide that where the co-owners of a revocable trust account are themselves the sole beneficiaries of the corresponding trust, the account shall be insured as a joint account. Such an account would not be insured as a revocable trust account because it does not express a testamentary intent that upon both owners' death the funds shall belong to one or more designated beneficiaries. An example of such a scenario would be an account titled "Husband and Wife" and made payable on death to "Husband and Wife." See the section of this *Guide* entitled "Death of an Account Owner" for the rules that would apply if one of the co-owners were to die.

Deposits opened "POD to a revocable trust"

If an informal revocable trust account designates as beneficiary a formal revocable trust wholly owned by the accountholder, the FDIC will consider the beneficiaries of the POD account to be the beneficiaries of the formal revocable trust. The FDIC will insure the deposit as an account titled in the name of the formal trust. This treatment is applicable only if the owner (or co-owners) of the deposit account own 100% of the formal revocable trust named as beneficiary. In other words, the owner of the POD account must be the owner of the formal revocable trust.

Thus, an account owned by John Smith that is titled "John Smith POD to the John Smith Revocable Trust" would be insured as if the account were titled in the name of John Smith's formal trust. The beneficiaries of the John Smith Revocable Trust would be considered the beneficiaries of the POD account. Similarly, an account owned by John and Mary Smith that is titled "John and Mary Smith POD John and Mary Smith Family Living Trust" would be insured the same as an account titled in the name of the co-owned trust.

Reversion of funds

If a POD account names as a beneficiary a formal revocable trust owned in whole or part by someone other than the accountholder, the account will be deemed to have designated an ineligible beneficiary and will be insured as the single ownership funds of the accountholder.

Example 9: POD accounts naming formal revocable trusts as beneficiaries				
Account Title	**Owner**	**Beneficiaries**	**Deposit Type**	**Account Balance**
Kevin Upton POD	Kevin	Kevin Upton Living Trust (Theresa and Tommy, Beneficiaries)	CD	$380,000
Kevin Upton POD	Kevin	Theresa Upton Living Trust (Kevin and Tommy, Beneficiaries)	CD	$50,000
Total				**$430,000**

Example 9

Facts:

Kevin Upton is the grantor of the Kevin Upton Living Trust that designates his wife and son, Theresa and Tommy, as primary beneficiaries. Kevin has two deposit accounts at his local IDI – a $380,000 CD payable on death to his own Kevin Upton Living Trust, and a $50,000 CD payable on death to his wife's Theresa Upton Living Trust (which names Kevin and Tommy as its sole beneficiaries). What is Kevin's deposit insurance coverage?

Rules:

(a) When an individual designates his formal revocable trust as beneficiary of an informal revocable trust account, the FDIC will consider the beneficiaries of the trust to be the beneficiaries of the POD account.

(b) When a revocable trust designates an ineligible beneficiary, the FDIC will insure the funds allocated to that ineligible beneficiary as the single ownership funds of the owner(s).

Answer:

Since Kevin designated his own formal revocable trust as beneficiary of the $380,000 CD, the FDIC considers Theresa and Tommy to be the account beneficiaries and will insure the account for up to $500,000 (1 owner x 2 beneficiaries x $250,000).

In contrast, Kevin's naming of another person's (Theresa's) revocable trust as beneficiary of the $50,000 CD is an ineligible beneficiary designation. As a result, that account will be insured as Kevin's single account. Since Kevin has no other single accounts at this IDI, the $50,000 CD is also fully insured.

Owner	Beneficiaries	Insurance Category	Amount On Deposit	Amount Insured	Amount Uninsured
Kevin Upton	Theresa and Tommy	Kevin Upton's Revocable Trust Account	$380,000	$380,000	$0
Kevin Upton	Theresa Upton's Trust	Kevin Upton's Single Account	$50,000	$50,000	$0

IV. Process for Calculating Insurance Coverage for Revocable Trust Accounts

In order to accurately calculate (a) if the revocable trust funds on deposit at an IDI are fully insured and/or (b) the maximum available deposit insurance coverage for revocable trust accounts, there are several questions that must be answered:

1. Who are the Owners of the Revocable Trust Account(s)?

It is the trust relationship between an owner and a beneficiary that forms the basis for FDIC deposit insurance coverage of revocable trust accounts. Thus, the identification of those parties is necessary for calculating coverage.

For informal revocable trust accounts, the depositor/accountholder is the owner of the account.

For formal revocable trust accounts, the owner is usually referred to as a settlor, trustor, grantor, donor, maker, or creator of the trust. **Often, an owner can be a trustee but trustee or successor trustee designations are irrelevant for purposes of calculating deposit insurance coverage.**

2. Who Are the Primary Unique Beneficiaries Upon the Death of the Owners?

A primary unique beneficiary is the person or entity entitled to an interest in the trust deposits when the owner dies.

Sometimes the trust agreement will provide that if a primary beneficiary predeceases the owner, the deceased beneficiary's share will pass to an alternative or contingent beneficiary. Regardless of such language, if the primary beneficiary is alive at the time of an IDI's failure, only the primary beneficiary, and not the alternative or contingent beneficiary, is taken into account in calculating deposit insurance coverage. For deposit insurance purposes, a beneficiary's interest in the trust deposits as of the date of an IDI's failure must not depend upon the death of another beneficiary.

In formal revocable trusts, while the naming of specific persons is preferable, it is not required provided the description of the beneficiaries is sufficient to determine their identities and beneficial interests. For example, descriptions of beneficiaries that can be specifically verified such as "my parents," "my issue (children)," "my spouse," "my grandchildren," are all acceptable. However, a designation such as "my family" is not specific enough and would not be acceptable.

A common situation in formal revocable trust agreements is the existence of a life estate beneficiary who has the right to receive either income or the use of some or all of the trust assets during his or her lifetime, with the remaining trust assets passing to remainder beneficiaries upon the life estate beneficiary's death. In the case of such trusts, both the life estate and the remainder beneficiaries are considered primary beneficiaries for purposes of calculating deposit insurance coverage. In most trusts, the life estate beneficiary is the surviving spouse.

3. Are the Primary Unique Beneficiaries "Eligible"?

To be deemed "eligible" for deposit insurance purposes, the primary unique beneficiary must be a natural living person or a charity or non-profit entity that is recognized as such under the Internal Revenue Code. If a named beneficiary is ineligible, for instance, a pet trust or for-profit entity, the funds allocated for that beneficiary will be insured as the single account of the revocable trust owner. If the beneficiary is a pet or other object that could not claim the funds even under applicable state law, the allocation of funds to that beneficiary will be deemed to have never occurred. Therefore, the funds would be insured as the single account of the revocable trust owner.

4. Are the Primary Unique Beneficiaries Identified in the IDI's Deposit Account Records (for Informal Trusts) or in The Trust Agreement (for Formal Trusts) Alive at the Time an IDI Fails?

A deceased person is not an eligible beneficiary and the death of a beneficiary can impact the calculation of deposit insurance coverage. Unlike the six-month grace period that applies when an account owner dies, there is no six-month grace period for the death of a revocable trust beneficiary. As a result, unless there is a substitute beneficiary designated to take the place of a primary beneficiary who dies, the amount of deposit insurance coverage for a revocable trust deposit may substantially decrease with the death of the primary beneficiary. It is recommended that trust owners review their deposit insurance coverage whenever a beneficiary dies.

5. What is the Dollar Amount or Percentage Interest Each Owner Has Allocated to Each Primary Beneficiary?

The calculation for revocable trusts relies primarily on an owner's total ownership interest in all revocable trust deposits at an IDI, as well as the number of unique eligible beneficiaries named.

6. Does the Revocable Trust Owner Have Any Other Revocable Trust Accounts in the Same IDI?

In order to accurately calculate deposit insurance coverage for an owner's revocable trust deposits at an IDI, the FDIC combines the interests of all beneficiaries the owner has named in all of the owner's revocable trust accounts—formal and informal—held at the IDI.

7. Are All the Revocable Trust Accounts Properly Titled?

The account title for each owner's revocable trust accounts at an IDI must indicate that the account is held pursuant to a trust relationship. For formal revocable trust accounts, this rule can be met by using the terms living trust, family trust, or any similar language, including simply having the word "trust" in the account title. For informal trusts, descriptive testamentary language such as "POD", "ITF" or "ATF" is sufficient. For informal revocable trust accounts, the "account title" includes information contained in the IDI's electronic deposit account records.

V. Five or Fewer Unique Beneficiaries Designated and Revocable Trust Deposits for Each Trust Owner Totaling $1,250,000 or Less

If a revocable trust owner is attempting to insure $1,250,000 or less, with five or fewer unique eligible beneficiaries, then the maximum available deposit insurance coverage for those accounts is calculated by multiplying $250,000 times the number of unique beneficiaries named by the owner: number of owners multiplied by the number of unique eligible beneficiaries multiplied by $250,000 equals the insurable amount.

If there are two or more owners of the accounts, each owner's insurance coverage is calculated separately.

Maximum insurance coverage for one trust owner when there are five or fewer unique beneficiaries	
Number of Unique Beneficiaries	**Maximum Deposit Insurance Coverage**
1 Beneficiary	$250,000
2 Beneficiaries	$500,000
3 Beneficiaries	$750,000
4 Beneficiaries	$1,000,000
5 Beneficiaries	$1,250,000

This calculation for revocable trust accounts with five or fewer beneficiaries is made without regard to the amount of money or percentage allocated to any of the beneficiaries.

Example 10: POD accounts totaling less than $1,250,000 for one owner designating three unique beneficiaries				
Account Title	**Owner**	**Beneficiaries**	**Deposit Type**	**Account Balance**
Rebecca Ross POD	Rebecca	Russell, Rosalind	MMDA	$50,000
Rebecca Ross POD	Rebecca	Russell	Savings	$20,000
Rebecca Ross POD	Rebecca	Jeremy	CD	$650,000
Total				**$720,000**

Example 10

Facts:

Rebecca Ross has three revocable trust accounts at an IDI totaling $720,000. For one account, Rebecca names her two siblings as beneficiaries, Russell and Rosalind. Russell is the sole beneficiary on the second account, and Rebecca's son, Jeremy, is named as the sole beneficiary on the last account.

Rule:

When an owner has multiple revocable trust accounts totaling less than $1,250,000, and naming five or fewer eligible beneficiaries, the trust accounts are added together and the owner receives up to $250,000 in deposit insurance coverage for each unique beneficiary. The formula used is number of owners multiplied by the number of unique eligible beneficiaries multiplied by $250,000 equals the insurable amount.

Answer:

The maximum available deposit insurance coverage for Rebecca's revocable trust accounts is calculated by multiplying $250,000 times three beneficiaries, which equals $750,000. Thus, Rebecca's $720,000 deposit is fully insured, despite the fact that Jeremy is designated to receive the bulk of the deposit with Russell and Rosalind allocated much smaller amounts: 1 owner x 3 beneficiaries x $250,000 = $750,000.

Owner	Beneficiaries	Maximum Available Deposit Insurance	Amount Insured	Amount Uninsured
Rebecca	Russell, Rosalind, Jeremy	$750,000	$720,000	$0

This example illustrates the single biggest misconception that the FDIC observes concerning the calculation of deposit insurance coverage for revocable trust accounts. The misconception is that deposit insurance coverage is determined by counting or adding the total number of owners and beneficiaries listed on a POD account. In this example, using the incorrect "counting heads" method, depositors will add the number of individuals identified, which is four (Rebecca plus Russell plus Rosalind plus Jeremy). Depositors will then multiply that number by $250,000 and erroneously conclude that the coverage is $1,000,000 instead of $750,000.

To accurately calculate deposit insurance coverage for revocable trust accounts, in general, the FDIC uses the formula of number of owners multiplied by the number of unique eligible beneficiaries multiplied by $250,000 equals the insurable amount.

VI. Six or More Unique Beneficiaries Designated and Revocable Trust Deposits Totaling Less Than $1,250,000 Per Trust Owner

If a revocable trust owner is attempting to insure **$1,250,000 or less**, with six or more unique eligible beneficiaries, then the owner's revocable trust deposits are fully insured even if the owner has allocated different or unequal percentages to multiple beneficiaries. The revocable trust regulations provide that revocable trust deposits owned by an individual naming six or more eligible beneficiaries on his or her accounts are insured for at least $1,250,000, without regard to the amount of money allocated to any of the beneficiaries.

Example 11: **Revocable trust accounts totaling $1,250,000 or less for one owner designating six or more unique beneficiaries**				
Account Title	**Owner**	**Beneficiaries**	**Deposit Type**	**Account Balance**
Bradley Simon Living Trust	Bradley	Linda, James and Justin	CD	$1,100,000
Bradley Simon POD	Bradley	Calvin, Karen, Mary, and Matthew	MMDA	$10,000
Total				**$1,110,000**

Example 11

Facts:

Bradley Simon has two revocable trust accounts at an IDI totaling $1,110,000. One account is a $1,100,000 CD in the name of his revocable living trust, which designates his wife and two children – Linda, James and Justin – as beneficiaries. The second account is a $10,000 MMDA which is payable on death to his four siblings – Calvin, Karen, Mary and Matthew. Bradley is inquiring whether his deposits in the total amount of $1,110,000 are fully insured.

Rule:

When an owner has multiple revocable trust accounts naming six or more beneficiaries, and the aggregate balance of those accounts is $1,250,000 or less, then the owner's revocable trust deposits are fully insured, regardless of the trust distributions to the beneficiaries.

Answer:

Since Bradley has named a total of seven eligible beneficiaries on his revocable trust accounts and the combined balance of those accounts does not exceed $1,250,000, Bradley's revocable trust deposits are fully insured by the FDIC. In this instance, the bulk of the revocable trust deposits are allocated to Bradley's wife and children in his living trust account and smaller amounts are allocated to his siblings through the POD account. However, since the combined amount is less than $1,250,000, the particular distribution to the beneficiaries is not relevant.

Owner	Beneficiaries	Minimum Available Deposit Insurance	Amount Insured	Amount Uninsured
Bradley	Linda, James, Justin, Calvin, Karen, Mary, and Matthew	$1,250,000	$1,110,000	$0

VII. Six or More Unique Beneficiaries with EQUAL Interests Designated and Revocable Trust Deposits Totaling More Than $1,250,000 Per Trust Owner

If a revocable trust owner is attempting to insure more than $1,250,000 and has designated six or more unique eligible beneficiaries with EQUAL interests (i.e., every beneficiary receives the exact same amount), the calculation is the same as for revocable trusts that name five or fewer beneficiaries. In other words, when the allocation to each and every one of the six or more beneficiaries is equal, the owner's revocable trust deposits are insured up to an amount equal to $250,000 times the number of beneficiaries named in both informal and formal revocable trust deposits established by the owner in an IDI.

The calculation, therefore, is the number of owners of the trust or POD account multiplied by the number of unique beneficiaries multiplied by $250,000 equals the insurable amount.

Maximum insurance coverage for each revocable trust owner when there are six or more unique beneficiaries with equal beneficial interests	
Number of Unique Beneficiaries	**Maximum Deposit Insurance Coverage**
6 Beneficiaries with Equal Interests	$1,500,000
7 Beneficiaries with Equal Interests	$1,750,000
8 Beneficiaries with Equal Interests	$2,000,000
9 Beneficiaries with Equal Interests	$2,250,000
10+ Beneficiaries with Equal Interests	**add up to $250,000 for each additional unique beneficiary**

Below is an example of revocable trust accounts with six beneficiaries with equal interests.

Example 12: **Revocable trust accounts for two owners with six unique beneficiaries with equal beneficial interests**		
Account Title	**Deposit Type**	**Account Balance**
Xavier and Maria Gomez Living Trust (Alonzo, Belinda, Carrie, Dominique, Elian, and Fernando, as Beneficiaries)	CD	$2,500,000
Xavier and Maria Gomez POD to Alonzo, Belinda, Carrie, Dominique, Elian, and Fernando	MMDA	$200,000

Example 12

Facts:

Xavier and Maria Gomez have two deposit accounts at an IDI. One account is titled in the name of their formal revocable living trust designating their six children as equal beneficiaries.

The other account is a co-owned informal revocable trust account that also names their children as equal beneficiaries. The combined balance of the accounts is $2,700,000.

Rules:

(a) When owners of one or more revocable trust accounts name six or more beneficiaries who are entitled to an equal distribution from the account(s), each owner's shares of the multiple trust accounts are added together and each owner receives up to $250,000 in insurance coverage for each unique beneficiary.

(b) The calculation to determine coverage is the number of owners multiplied by the number of unique eligible beneficiaries multiplied by $250,000 equals the insurable amount.

Answer:

Xavier and Maria each own one-half of the two revocable trust accounts for a total share of $1,350,000 apiece. Since they each have more than $1,250,000 in revocable trust deposits, their beneficiary allocations have to be analyzed. In this case, Xavier and Maria have each designated six unique beneficiaries to receive equal shares of the accounts. Therefore, Xavier and Maria are insured up to a maximum amount of $3,000,000 (2 owners times 6 beneficiaries times $250,000). Individually, each of them is insured up to $1,500,000 (1 owner times 6 beneficiaries times $250,000). Since their respective $1,350,000 shares are less than $1,500,000, Xavier and Maria's revocable trust accounts are fully insured.

Owner	Beneficiaries	Owner's Share	Maximum Available Deposit Insurance	Insured Amount	Uninsured Amount
Xavier	Alonzo, Belinda, Carrie, Dominique, Elias, and Fernando	$1,350,000	$1,500,000	$1,350,000	$0
Maria	Alonzo, Belinda, Carrie, Dominique, Elias, and Fernando	$1,350,000	$1,500,000	$1,350,000	$0
Total		**$2,700,000**	**$3,000,000**	**$2,700,000**	**$0**

Each beneficiary's interest in the funds in the two accounts (the account in the name of the Gomez Living Trust and the POD account) is as follows:

Owner	Beneficiary	Beneficiary's Share	Maximum Available Deposit Insurance	Amount Insured	Amount Uninsured
Xavier	Alonzo	$225,000	$250,000	$225,000	$0
	Belinda	$225,000	$250,000	$225,000	$0
	Carrie	$225,000	$250,000	$225,000	$0
	Dominique	$225,000	$250,000	$225,000	$0
	Elias	$225,000	$250,000	$225,000	$0
	Fernando	$225,000	$250,000	$225,000	$0
Maria	Alonzo	$225,000	$250,000	$225,000	$0
	Belinda	$225,000	$250,000	$225,000	$0
	Carrie	$225,000	$250,000	$225,000	$0
	Dominique	$225,000	$250,000	$225,000	$0
	Elias	$225,000	$250,000	$225,000	$0
	Fernando	$225,000	$250,000	$225,000	$0
Total		**$2,700,000**	**$3,000,000**	**$2,700,000**	**$0**

VIII. Six or More Unique Beneficiaries With UNEQUAL Interests Designated and Revocable Trust Deposits Totaling More Than $1,250,000

In requesting information regarding deposit insurance coverage for revocable trust accounts, depositors generally ask one of the following questions:

1. **Based on the funds I have already deposited under my revocable trust, how much am I insured for at your IDI? or**
2. **I am thinking of depositing funds at your IDI and opening a revocable trust account. What is the maximum deposit insurance coverage for my account, with no uninsured funds?**

While the questions may seem similar, the method of calculation of deposit insurance for each inquiry is different. Therefore, it is critical to establish which question the depositor is posing.

IDI employees should use the steps below for responding to the first question:
Based on the funds I have already deposited under my revocable trust, how much am I insured for at your IDI?

If in a revocable trust account, the owner is attempting to insure more than $1,250,000 with six or more unique eligible beneficiaries with UNEQUAL beneficial interests**,** then the owner's trust deposits at each IDI will be insured for the greater of: (i) $1,250,000, or (ii) the total of the specific allocations to all named beneficiaries up to $250,000 per beneficiary.

To determine the insured amount for funds already on deposit for a revocable trust naming six or more beneficiaries with unequal allocations, follow these four steps:

<u>Step 1</u>– Identify all revocable trust deposits established by a specific owner in an IDI.

<u>Step 2</u> – Determine the aggregate dollar allocation from the revocable trust owner to each unique beneficiary.

<u>Step 3</u> – If the actual allocation under Step 2 to each beneficiary is $250,000 or less, then the owner's entire revocable trust deposit is fully insured, even if the balance exceeds $1,250,000. If the actual allocation under Step 2 to any beneficiary exceeds $250,000, then to the extent the amount exceeds $250,000, the excess amount is potentially uninsured.

<u>Step 4</u> – If any beneficial interest exceeds $250,000, then the owner is insured for the greater of (i) the sum of each beneficiary's share of the trust deposit up to $250,000 for each beneficiary, or (ii) $1,250,000.

Example 13: Multiple POD accounts with a combined balance exceeding $1,250,000 and naming six unique beneficiaries receiving unequal distributions		
Account Title	**Deposit Type**	**Account Balance**
Mark POD Alice, Zack, Brandon, Charity	CD	$1,400,000
Mark POD Nick	Savings	$50,000
Mark POD Carol	Checking	$50,000

Example 13

Facts:

Mark has three informal revocable trust accounts at an IDI. One account, a CD for $1,400,000, designates Alice, Zack, Brandon and Charity as equal beneficiaries. The second account is a $50,000 savings account designating Nick as beneficiary, and the third is a checking account with a $50,000 balance that designates Carol as beneficiary. Mark wants to know whether his entire deposit of $1,500,000 is fully insured.

Rule:

When the owner of one or more revocable trust accounts names six or more beneficiaries who receive unequal distributions from the accounts, the owner is insured for the greater of: (i) $1,250,000, or (ii) the total of the specific allocations to all named beneficiaries up to $250,000 per beneficiary.

Answer:

Step 1 – Mark has opened three revocable trust accounts at the IDI (with a combined balance of $1,500,000).

Step 2 – For these three accounts, the actual dollar allocation from Mark to each beneficiary is set forth in the chart below.

Step 3 – If the allocation under Step 2 to any beneficiary exceeds $250,000, the excess amount is potentially uninsured. In this case, there is potentially $400,000 uninsured.

Owner	Beneficiary	Beneficiary Allocation from POD	Beneficiary Allocation up to $250,000	Potential Uninsured Amount
Mark	Alice	$350,000	$250,000	$100,000
Mark	Zack	$350,000	$250,000	$100,000
Mark	Brandon	$350,000	$250,000	$100,000
Mark	Charity	$350,000	$250,000	$100,000
Mark	Nick	$50,000	$50,000	$0
Mark	Carol	$50,000	$50,000	$0
Total		**$1,500,000**	**$1,100,000**	**$400,000**

Step 4 – Although the interests (up to $250,000) allocated to each beneficiary total $1,100,000 with $400,000 potentially uninsured, the FDIC insures revocable trust accounts naming six or more beneficiaries for at least $1,250,000. Therefore, in this example, although Mark's deposits were potentially uninsured for $400,000, because the default insured amount under the regulations is $1,250,000, Mark is insured for $1,250,000 and uninsured for $250,000.

Example 14: Multiple POD accounts with common owners and beneficiaries	
Account Title	**Balance**
Paul & Lisa Li Living Trust (John and Sharon, as beneficiaries)	$700,000
Lisa Li POD to Paul, John and Sharon	$450,000

Example 14

Facts:

Paul and Lisa Li, husband and wife, are co-grantors of a revocable living trust which designates their two children, John and Sharon, as beneficiaries. At their local IDI, they have one deposit account in the amount of $700,000 titled in the name of their living trust. Paul has no other deposits at the IDI, but Lisa has a second informal revocable trust account in the amount of $450,000 payable on death to Paul, John and Sharon.

Rules:

(a) Deposit insurance coverage for an owner with multiple revocable trust deposits at a single IDI is calculated based on the total dollar amount of the owner's interest in those accounts and on the number of unique eligible beneficiaries named by the owner.

(b) When an owner has multiple revocable trust accounts totaling less than $1,250,000, and naming five or fewer eligible beneficiaries, the owner's interests in the accounts are added together and the total balance insured for up to a maximum amount equal to $250,000 times the number of eligible beneficiaries.

Answer:

Paul's share of the deposits is $350,000, one-half of the balance of the revocable trust account he co-owns with Lisa. He named a total of two eligible beneficiaries. Therefore, his maximum available deposit insurance coverage is $500,000 (one owner times two beneficiaries times $250,000).

Since Paul's aggregate revocable trust deposits are $350,000 and therefore less than $500,000, his deposits are fully covered by deposit insurance.

Lisa's share of the deposits is $800,000, the sum of one-half of the co-owned account ($350,000) added with 100% of her sole owned POD account ($450,000). Lisa named a total of three eligible beneficiaries at the IDI. Therefore, the calculation for her deposit insurance coverage is one owner times three beneficiaries times $250,000. Her revocable trust deposits are insured for up to $750,000, with $50,000 in uninsured funds.

Table of Paul Li's ownership interest:

Owner	Owner's Share of Revocable Trust	Beneficiaries	Beneficiary's Share	Maximum Available Deposit Insurance	Amount Insured	Amount Uninsured
Paul Li	$350,000	John	$175,000	$250,000	$175,000	$0
		Sharon	$175,000	$250,000	$175,000	$0
Total	**$350,000**				**$350,000**	**$0**

Table of Lisa Li's ownership interest:

Owner	Owner's Share of Revocable Trust	Beneficiaries	Beneficiary's Share	Maximum Available Deposit Insurance	Amount Insured	Amount Uninsured
Lisa Li	$350,000 (from the formal trust) plus $450,000 (from the POD)	John	$325,000	$250,000	$750,000	$50,000
		Sharon	$325,000	$250,000		
		Paul	$150,000	$250,000		
Total	**$ 800,000**		**$800,000**		**$750,000**	**$50,000**

IX. Informal Revocable Trust Accounts (Payable-on-Death)

Informal revocable trusts are commonly known as POD, ITF, or "Totten" trust accounts. These informal trusts are created when a deposit account owner indicates in the account title that, upon the depositor's death, the deposits are to be payable to one or more beneficiaries. Informal revocable trust accounts are governed solely by the terms indicated in the IDI records, the account agreement and applicable state law.

Although the rules for calculating formal and informal trust deposits are the same, the following discussion highlights key issues of particular importance in analyzing deposit insurance coverage for informal revocable trust accounts.

1. Recordkeeping Requirements

The testamentary intent of the owner of an informal revocable trust account is evidenced solely by the account signature card or other account agreement between the owner and the IDI, and by the electronic records maintained by the IDI. FDIC regulations mandate that the following recordkeeping requirements be met in order for a deposit to qualify for insurance coverage under the revocable trust ownership category:

The account title, defined to include the electronic deposit account records maintained by the IDI, must reflect the testamentary nature of the account.

The testamentary nature of a revocable trust account must be manifested in the "title" of the account. For informal revocable trust accounts, this requirement is often satisfied by using commonly accepted terms such as, but not limited to, "in trust for," "as trustee for," "payable-on-death to," or any acronym therefor (e.g., "ITF," "ATF" or "POD"). The "title" of a revocable trust account is expressly defined to include the electronic deposit account records of the IDI. For this purpose, the designation can be as simple as a code in the IDI's electronic deposit account records. Accordingly, if an IDI's electronic records identify a deposit as a revocable trust account, the account will be insured as such.

The beneficiaries must be identified by name in the deposit account records of the IDI.

FDIC regulations further require that the specific names of the beneficiaries must be reflected in the IDI's account records. This does not mean that the beneficiary names must be reflected in the account name or caption; provided that the name is in the IDI's records, i.e., on the signature card or account agreement, this requirement is deemed satisfied. This requirement applies solely to informal revocable trust accounts. It does not apply to formal living trust accounts.

2. Coverage When There Are Multiple Owners and/or Beneficiaries

If an informal revocable trust account has more than one owner (for example, a husband and wife), the FDIC will assume that each owner has an equal share of the accounts unless the IDI's deposit account records indicate otherwise. Similarly, if an informal revocable trust account names two or more beneficiaries, the FDIC will assume that each beneficiary will receive an equal interest in the account unless otherwise stated in the IDI's deposit account records.

Example 15: **POD account with two owners and six beneficiaries**	
Account Title	**Balance**
Ralph and Paula Miller POD to Sandra, Mildred, Ralph Jr., Clair, George, and Brian	$2,700,000

Example 15

Facts:

Ralph and Paula Miller are co-owners of a CD in the amount of $2,700,000, which names their six children, Sandra, Mildred, Ralph Jr., Clair, George and Brian, as beneficiaries. All parties are alive. Currently this is the only account held by Ralph and Paula at this IDI, but they are interested in establishing another CD account at the same IDI which names the same beneficiaries.

Rules:

(a) If a deposit account has multiple owners and/or multiple beneficiaries, the FDIC will assume that each owner's share of the deposit is equal to the other co-owners' interests, and that the allocation to the beneficiaries is equal.

(b) The maximum available deposit insurance coverage for revocable trust accounts naming six or more beneficiaries with equal beneficial interests is calculated using the following formula: the number of owners multiplied by the number of unique eligible beneficiaries multiplied by $250,000.

Answer:

Since there are two co-owners, unless otherwise stated, the FDIC presumes that Ralph and Paula each own one-half of the deposit and that the six beneficiaries have each been allocated an equal, one-sixth interest in the deposit. With six or more beneficiaries sharing equally, the maximum available deposit insurance coverage for Ralph and Paula combined is $3,000,000 – (2) owners times (6) beneficiaries times $250,000. Thus, at this IDI, Ralph and Paula can open another CD titled in the same manner as the first for up to $300,000. Provided that the combined balance of the accounts does not exceed $3,000,000, Ralph and Paula's revocable trust deposits at the IDI will be fully insured.

Coverage can be stated as: **Ralph's ownership share of the deposit = $1,350,000** **Paula's ownership share of the deposit = $1,350,000**			
Owner to Beneficiary	**Owner to Beneficiary Allocation**	**Insured Amount**	**Maximum Available Coverage**
Ralph POD to Sandra	$225,000	$225,000	$250,000
Ralph POD to Mildred	$225,000	$225,000	$250,000
Ralph POD to Ralph Jr.	$225,000	$225,000	$250,000
Ralph POD to Clair	$225,000	$225,000	$250,000
Ralph POD to George	$225,000	$225,000	$250,000
Ralph POD to Brian	$225,000	$225,000	$250,000
Paula POD to Sandra	$225,000	$225,000	$250,000
Paula POD to Mildred	$225,000	$225,000	$250,000
Paula POD to Ralph Jr.	$225,000	$225,000	$250,000
Paula POD to Clair	$225,000	$225,000	$250,000
Paula POD to George	$225,000	$225,000	$250,000
Paula POD to Brian	$225,000	$225,000	$250,000
Total	**$2,700,000**	**$2,700,000**	**$3,000,000**

3. Coverage When an Owner Dies

When a co-owner of an informal revocable trust account dies, deposit insurance coverage for the deceased owner's interest in the account will cease after the expiration of the six-month grace period allowed for the death of deposit account owners. Deposit insurance coverage will be calculated as if the deceased co-owner did not exist and his or her name did not remain on the account.

This treatment of the account will be based upon the fact that all of the funds in the account will be owned by one person (i.e., the surviving co-owner).

Example 16: **POD account with multiple owners and beneficiaries after an owner dies**	
Account Title	**Balance**
Ralph and Paula Miller POD to Sandra, Mildred, Ralph Jr., Clair, George, and Brian	$2,700,000

Example 16

Facts:

A year after Ralph Miller's death, there is still outstanding a $2,700,000 CD account in the names of Ralph and Paula Miller that designates their six living children as beneficiaries.

Rules:

(a) Subject to the expiration of a six-month grace period, the death of a co-owner of an informal revocable trust account will result in the account being insured as if the deceased co-owner did not exist and his or her name did not remain on the account.

(b) The maximum available deposit insurance coverage for each owner of revocable trust accounts naming six or more beneficiaries with equal beneficial interests is calculated as the number of owners multiplied by the number of unique eligible beneficiaries multiplied by $250,000.

Answer:

Commencing six months after Ralph's death, deposit insurance coverage for the CD was reduced to $1,500,000, calculated by multiplying $250,000 times the number of beneficiaries named by Paula, the sole surviving account owner. This leaves the CD $1,200,000 short of full coverage.

This example demonstrates the importance of reviewing deposit insurance coverage whenever the owner of a deposit account dies.

If Ralph dies, the deposit insurance coverage after the expiration of the six-month grace period is reduced:			
Owner to Beneficiary	**Owner to Beneficiary Allocation**	**Insured Amount**	**Uninsured Amount**
Paula POD to Sandra	$450,000	$250,000	$200,000
Paula POD to Mildred	$450,000	$250,000	$200,000
Paula POD to Ralph Jr.	$450,000	$250,000	$200,000
Paula POD to Clair	$450,000	$250,000	$200,000
Paula POD to George	$450,000	$250,000	$200,000
Paula POD to Brian	$450,000	$250,000	$200,000
Total	**$2,700,000**	**$1,500,000**	**$1,200,000**

4. Death of a Beneficiary

The six-month grace period does not apply to the death of a beneficiary named on a revocable trust account. Unless there is an alternate or contingent beneficiary named, coverage will be reduced immediately. Upon the death of a beneficiary of an informal revocable trust account, the designation to the deceased beneficiary will be ignored for purposes of deposit insurance calculation.

Example 17: POD account with multiple beneficiaries when one beneficiary dies			
Account Title	**Owner**	**Beneficiaries**	**Account Balance**
Jonathan Stuart POD	Jonathan	Peter and Amy Stuart (parents)	$255,000

Example 17

Facts:

Jonathan Stuart has established a $255,000 deposit account at an IDI that is payable on death to two beneficiaries, Peter and Amy. After the account was opened, Peter passed away. What is Jonathan's deposit insurance coverage?

Rules:

(a) To be deemed the eligible beneficiary of a revocable trust account, an individual beneficiary must be living.

(b) In calculating deposit insurance coverage for a deposit account, if the primary beneficiary is deceased and there is no provision for a substitute beneficiary in an account agreement, the designation to the deceased beneficiary will be ignored, as if it had never occurred.

(c) There is no grace period for the death of a beneficiary.

Answer:

Peter's death has an immediate effect on the amount of deposit insurance available to Jonathan. With Peter's passing, the trust designation to him is ignored. Jonathan, therefore, is left with just one eligible beneficiary, so that the maximum available deposit insurance coverage for his informal revocable trust account drops from $500,000 (1 owner x 2 beneficiaries x $250,000) to $250,000 (1 owner x 1 beneficiary x $250,000). As a result, Jonathan's POD account is uninsured for $5,000.

5. Accounts Opened POD to the Depositor's Formal Revocable Trust

A formal trust generally does not meet the definition of an eligible beneficiary for deposit insurance purposes. However, if a deposit designates as beneficiary a formal revocable trust wholly owned by the depositor/accountholder, the FDIC will insure the deposit as a revocable trust account. In such case, the FDIC will consider the beneficiaries of the trust to be the beneficiaries of the POD account and will insure the account as if it were titled in the name of the formal trust. This treatment is applicable only if the owner or co-owners of the deposit account own 100% of the formal revocable trust named as beneficiary.

6. Coverage When An Owner Has Multiple POD Accounts

The total amount of deposit insurance coverage available to a depositor with ownership interests in multiple revocable trust accounts at an IDI is calculated based on the depositor's aggregate revocable trust deposits, and on the total number of unique eligible beneficiaries designated by the depositor at the IDI.

X. Formal Revocable Trust Accounts (Living or Family Trust Accounts)

Formal revocable trusts, also known as "living" or "family" trusts, are created and governed by the terms of a separate revocable trust agreement, usually drafted by an attorney for estate planning purposes. The owner of a formal revocable trust agreement retains the right to control the deposits and other assets of the trust during his or her lifetime, and also reserves the right to amend or revoke the trust. Upon the owner's death, the trust deposits and other trust assets are distributed to one or more beneficiaries identified in the trust.

As noted in this chapter, the deposit insurance calculation for formal and informal trusts is the same. The following highlights some of the issues and considerations that may be encountered when calculating deposit insurance coverage for formal revocable trust accounts.

1. Titling of Accounts

For formal revocable trust accounts, satisfying the requirement that the revocable trust account title reflect the testamentary intent of the owner can easily be met by using a term such as "living trust," "family trust," "revocable trust," or "trust" in the account title. As an example, an account titled "The Peter Miller Revocable Trust" would meet the FDIC requirement. Often, there may be supplemental language in the title including the names of trustees and descriptive language such as the date the trust was created. This additional language is acceptable but unnecessary for FDIC insurance purposes.

2. Maintaining Copies of the Trust Agreement at the IDI

While the titling of an account in the name of a formal revocable trust is acceptable for deposit insurance purposes, the IDI is not mandated to retain a copy of the trust agreement. Some IDIs may maintain copies of certain pages or copies of the entire agreement. That is within the purview of the IDI, which may retain copies for its own business purposes. In order to determine coverage, the FDIC will request a copy of the agreement from the trustee or the grantor of the trust, if needed, should the IDI fail.

3. Identifying the Trust Owners

It is the entitlement created between revocable trust owners and beneficiaries that forms the basis for calculating deposit insurance coverage for a revocable trust account.

Formal revocable trusts commonly have either one or two owners who are identified in the trust agreement as the "settlors," "trustors," "grantors," "donors," "makers" or "creators." This designation usually is specified on the first page of the trust agreement. (Revocable trusts listing three or more owners should be reviewed carefully to ensure that each named owner is in fact an actual owner of trust assets.) When multiple owners are identified, the FDIC assumes that each is an equal owner of the trust assets unless otherwise specified in the trust agreement.

It is not unusual for the owners of a trust to take on the additional role of trustee. The trustee is the person or entity given the responsibility to make distributions of the trust funds in accordance with the terms of the trust agreement. **Trustee and successor trustee designations are irrelevant to the calculation of deposit insurance coverage for a revocable trust account.**

4. Identifying Beneficiaries

For deposit insurance purposes, beneficiaries are those persons or entities who shall become entitled to the trust funds upon the death of the last trust owner.

In identifying the beneficiaries of a formal revocable trust, search for those sections or paragraphs that provide instructions for the distribution of the trust funds following the death of the last owner. It is not necessary that the beneficiaries be individually identified in the trust agreement by name, but the designation must be specific enough to clearly identify the intended beneficiary, e.g., "to my children and grandchildren." In addition, designations such as "my issue" or "descendants per stirpes" are acceptable.

However, a designation such as "my family" is not specific enough and would not be acceptable. Please note that a section outlining the designation of trustees or successor trustees in the event of the incapacitation of the grantor does not indicate who would be the beneficiaries upon the death of the grantor.

Some grantors may designate a special needs trust as the beneficiary of their trust. In calculating deposit insurance coverage, the FDIC will look through the special needs trust to the ultimate beneficiary of that trust and deem that individual to be an eligible beneficiary.

Under the terms of some living trust agreements, the death of a trust owner results in the creation of two or more trusts. If a trust agreement provides that the trust funds shall pass into one or more new trusts upon the death of one or both owners, the future trusts are not treated as beneficiaries of the revocable trust before the death of any owner. Rather, the future trusts are viewed simply as mechanisms for distributing the trust funds, and the beneficiaries are the persons and/or entities who shall receive the trust funds through the future trusts.

Some grantors may also indicate in their trust agreement that the beneficiaries are identified in the grantor's last will and testament. Such a designation is acceptable provided that the beneficiaries in the last will and testament are identifiable as eligible beneficiaries. If the beneficiaries of a trust agreement are identified in the grantor's will, the FDIC may need a copy of the will to determine deposit insurance coverage, if the IDI fails.

The following are additional guidelines relating to the identification of eligible beneficiaries of a formal revocable trust account.

An owner of a trust is not treated by the FDIC as a beneficiary of the trust

For deposit insurance purposes, beneficiaries are those persons, charities or not-for-profit entities who shall become entitled to the trust funds following the death of the last owner. While a grantor of a formal trust "benefits" from the trust during his or her lifetime, for deposit insurance purposes, a grantor is not treated as a beneficiary of his or her own trust.

In addition, although formal revocable trusts co-owned by two individuals (for example, a husband and wife) frequently provide for lifetime payments to the surviving owner following the death of the first owner, a co-owner will not be counted as a beneficiary in calculating deposit insurance coverage for such trusts.

Life estate beneficiaries

Some formal revocable trusts provide that a beneficiary has the right to receive income from the trust or to use trust assets during the beneficiary's lifetime (known as a life estate interest), and after that life estate beneficiary dies, other beneficiaries are to share the remaining trust assets. In such a case, the FDIC will recognize the life estate beneficiary as well as the remainder beneficiaries in determining insurance coverage. For cases in which the number of beneficiaries is six or more (so that a specific amount of the funds in the revocable trust account(s) must be allocated to each of the various beneficiaries), the FDIC's rules provide that $250,000 shall be allocated to a life estate beneficiary.

Example 18: **Formal revocable trust account for one owner with one life estate beneficiary and five remainder beneficiaries with equal beneficial interests**
Account Title
Mark Carter Living Trust (Ruth, Virginia, Matt, Denise, Bernard and Terri, as beneficiaries)

Facts:

Mark Carter has a living trust that gives his wife, Ruth, a life estate interest. Upon Ruth's death, the couple's five children are designated as remainder beneficiaries to equally share the balance of the trust. Mark Carter would like to place $2,000,000 in the IDI using this trust. Can he do this with no uninsured funds? If not, what is the maximum that can be insured at one IDI with no uninsured funds?

Rules:

(a) For revocable trust accounts with an aggregate balance exceeding $1,250,000, and naming more than five different beneficiaries, a life estate interest is valued at $250,000.

(b) With 6 or more beneficiaries with equal interests, the maximum amount that can be deposited with no uninsured funds is $1,500,000—1 owner multiplied by 6 beneficiaries multiplied by $250,000.

Answer:

The FDIC rules provide that in a trust with more than five beneficiaries and an aggregate balance exceeding $1,250,000, a life estate beneficiary's interest will be valued at $250,000. Since Ruth's life estate interest is valued at $250,000, that means $1,750,000 can be allocated to the remaining five beneficiaries.

This allocation is $350,000 per beneficiary which results in $100,000 in uninsured funds for each of the five beneficiaries. In order for the funds to be fully insured, then each of the remaining five beneficiaries can only be insurable for up to $250,000. Therefore, the maximum that can be insured under Mark's trust at one IDI with no uninsured funds is $1,500,000 which is one owner multiplied by five beneficiaries multiplied by $250,000 plus the specific allocation valuation of $250,000 for the life estate beneficiary interest.

One life estate beneficiary and five remainder beneficiaries with equal beneficial interests equals six beneficiaries with equal allocations				
Owner	**Beneficiary**	**Beneficiary Allocation up to $250,000**	**Maximum Available Insured Amount**	**Amount Uninsured**
Mark	Ruth	$250,000	$250,000	$0
Mark	Virginia	$350,000	$250,000	$100,000
Mark	Matt	$350,000	$250,000	$100,000
Mark	Denise	$350,000	$250,000	$100,000
Mark	Bernard	$350,000	$250,000	$100,000
Mark	Terri	$350,000	$250,000	$100,000
Total		**$2,000,000**	**$1,500,000**	**$500,000**

Alternate or contingent beneficiaries

FDIC deposit insurance coverage for revocable trust accounts is based upon the owners and beneficiaries alive at the time an IDI fails. Furthermore, a living beneficiary must be a primary beneficiary—meaning that his or her interest in the trust does not depend on the death of another trust beneficiary. An alternate or contingent beneficiary – that is, an individual who would receive the trust deposits if another beneficiary were to die before the account owner – does not qualify as a primary beneficiary for FDIC deposit insurance purposes. Consider the example of a trust agreement providing that the interest of the owner's son will be distributed to a charitable organization if the son were to die before the owner. If the son is alive when the IDI fails, the FDIC would not treat the charitable organization as a primary beneficiary because the organization's interest would depend upon the death of another beneficiary (that is, the owner's son). On the other hand, if the son is deceased when the IDI fails, the FDIC would treat the charitable organization as a primary beneficiary.

"Off the top" distributions

In identifying beneficiaries, the FDIC does not distinguish between beneficiaries who shall receive distributions "off the top" and beneficiaries who shall receive a percentage or portion of remaining funds. If a living trust agreement provides for payments to designated persons or entities before distribution of the balance of the trust funds, those receiving the "off the top" distribution, as well as those receiving the balance of the trust assets, will be deemed beneficiaries for deposit insurance purposes. Therefore, if a beneficiary receives an "off the top" distribution and also shares in the residual deposit funds, the beneficiary's total interests are added together.

5. Calculating Maximum Deposit Insurance Coverage for Formal Revocable Trust Accounts with Six or More Beneficiaries

In situations where six or more beneficiaries with unequal interests are named in a formal trust, the FDIC has developed a process to determine if the maximum insurable amount can exceed $1,250,000.

<u>Step 1</u> - Determine the largest percentage amount allocated to any one beneficiary pursuant to the provisions of the revocable trust agreement.

<u>Step 2</u> – Convert the largest percentage allocation from Step 1 to a corresponding decimal number (e.g., 25% = .25), and divide $250,000 by that number.

<u>Step 3</u> - Look at the result from Step 2. If the amount is <u>less</u> than or equal to $1,250,000, then the formal revocable trust has a maximum insurable amount equal to <u>exactly</u> $1,250,000. If the Step 2 result is <u>greater</u> than $1,250,000, then this greater number is the maximum amount that can be deposited using this trust agreement with no uninsured funds.

As illustrated in the table below, if one or more beneficiaries have an allocated interest at or above 20%, the product of the <u>Step 2</u> calculation will be $1,250,000 or less and, thus, the maximum insurable amount with no uninsured funds will always be limited to $1,250,000.

Beneficiary with Largest Percentage/Share	Break Even Calculation	Maximum Available Coverage Amount
19%	$250,000 ÷ .19 = $1,315,789.47	$1,315,789.47
20%	**$250,000 ÷ .20 =$1,250,000.00**	**$1,250,000.00**
21%	$250,000 ÷.21 = $1,190,476.19	$1,250,000.00

If the largest beneficial interest is **at or below 20%,** the calculation will result in a maximum available amount of deposit insurance greater than $1,250,000.

Example 19: **Formal revocable trust account for one owner with eight beneficiaries with unequal beneficial interests**	
Beneficiary	**Beneficiary Percentage Allocation**
Child 1	15%
Child 2	15%
Child 3	15%
Grandchild 1	11%
Grandchild 2	11%
Grandchild 3	11%
Grandchild 4	11%
Grandchild 5	11%
Total	**100%**

Example 19

Facts:

Harry Jones is the owner of the Harry Jones Revocable Living Trust that designates as beneficiaries Harry's three children and five grandchildren, all of whom are living.

The trust provides that upon Harry's death, the trust assets are to be divided and distributed so that his children each receive a 15% share and each grandchild an 11% share. If Harry opens accounts at a single IDI, all titled in the name of the Harry Jones Revocable Living Trust, what is the total <u>maximum amount</u> that he could deposit into the accounts and have <u>the entire balance covered by deposit insurance</u>?

Rule:

The maximum amount of deposit insurance available for a depositor's revocable trust accounts titled in the name of a living trust that designates more than six beneficiaries is the greater of (a) $1,250,000, or (b) the product of $250,000 divided by an amount equal to the largest percentage beneficiary allocation provided in the trust.

Answer:

Step 1: The largest percentage beneficiary allocations in Harry's revocable trust are the 15% distributions made to each of his three children.

Step 2: The product of $250,000 divided by 15% (.15) is $1,666,667.

Step 3: Since $1,666,666 is greater than $1,250,000, the maximum amount of deposit insurance coverage available for revocable trust accounts at a single IDI all titled in the name of the Harry Jones Revocable Living Trust is $1,666,667.

If Harry were to deposit a total $1,666,667, the largest beneficiaries would receive $250,000 each:

Beneficiary	Beneficiary Allocation if $1,666,667 Deposited
Child 1	$250,000
Child 2	$250,000
Child 3	$250,000
Grandchild 1	$183,333
Grandchild 2	$183,333
Grandchild 3	$183,333
Grandchild 4	$183,333
Grandchild 5	$183,333
Total	**$1,666,667**

Example 20

Facts:

John is the owner of a revocable trust naming five beneficiaries with per beneficiary allocations up to the amounts listed on the chart below and with the sixth beneficiary receiving the remainder of any cash left after the specific allocations are disbursed. Assume all beneficiaries are alive and have been confirmed as primary beneficiaries.

At this time, John has $2,100,000 to deposit under the trust agreement and John asks "Can I open this deposit at your IDI and be fully insured for the $2,100,000?" John's trust provides the following allocations when he dies:

Trust Beneficiary	Trust Allocation
Beneficiary 1 (Sally)	$225,000
Beneficiary 2 (James)	$225,000
Beneficiary 3 (Amy)	$225,000
Beneficiary 4 (Lucy)	$225,000
Beneficiary 5 (Tina)	$225,000
Beneficiary 6 (Michael)	(remainder) $975,000
Total	**$2,100,000**

Rule:

To determine whether revocable trust funds on deposit at an IDI are fully insured, review each beneficiary's allocation under the trust agreement. With six or more beneficiaries named, any allocation in excess of $250,000 would create uninsured funds if the amount to be deposited exceeds $1,250,000.

Answer:

John cannot deposit the entire $2,100,000 under the trust agreement and have 100% of the funds fully insured. The specific allocations under the trust agreement total $1,125,000. Under the terms of the trust, five beneficiaries each receive $225,000. These allocations are fully insured because they are below the SMDIA of $250,000. The remainder amount available under the trust agreement would be $975,000 which is allocated to Michael, Beneficiary 6. The amount allocated to Michael would only be insured up to the SMDIA, $250,000. Under the terms of this trust agreement, the maximum amount that can be placed in the account with no uninsured funds is $1,375,000 ($1,125,000 plus $250,000). The remaining $725,000 in the account is uninsured.

- **Revocable Trust Accounts**

Trust Beneficiary	Trust Allocation	Insured Amount	Uninsured Amount
Beneficiary 1 (Sally)	$225,000	$225,000	$0
Beneficiary 2 (James)	$225,000	$225,000	$0
Beneficiary 3 (Amy)	$225,000	$225,000	$0
Beneficiary 4 (Lucy)	$225,000	$225,000	$0
Beneficiary 5 (Tina)	$225,000	$225,000	$0
Beneficiary 6 (Michael)	$975,000	$250,000	$725,000
Total	**$2,100,000**	**$1,375,000**	**$725,000**

XI. Common Misconceptions in Calculating Insurance Coverage for Revocable Trusts

Below are some misconceptions that both depositors and IDI employees have regarding calculating coverage for revocable trust accounts.

1. Counting Heads Method

As illustrated in the following example, depositors and IDI employees mistakenly believe that deposit insurance coverage for revocable trust accounts is calculated by counting or adding up every name on an account and multiplying that number by $250,000. This misconception of how deposit insurance is calculated is known as the "Counting Heads Method." This is an incorrect method to determine coverage.

Example 21

Facts:

John opened a payable-on-death account and named Lisa as a beneficiary on the account. John does not have any other accounts at the same IDI. What is the deposit insurance coverage for this account?

Rule:

For five or fewer beneficiaries, deposit insurance coverage is calculated by using the following formula: the number of owners times the number of beneficiaries times $250,000.

Answer:

John as the owner of the account is insured for up to $250,000. The misconception for this type of account is that coverage is calculated by adding or counting the number of owners and the number of beneficiaries and then multiplying that number by $250,000. By using this incorrect *counting heads method*, depositors and some IDI employees believe that the coverage for a payable on death account with one owner and one beneficiary is $500,000. This is incorrect.

To accurately calculate coverage, first determine how many owners and how many beneficiaries are named on the revocable trust account.

Next, use the formula for revocable trust accounts with five or fewer beneficiaries: the number of owners multiplied by the number of unique eligible beneficiaries multiplied by $250,000 equals the insurable amount. In this example, there is one owner of the POD account (John) and there is one beneficiary (Lisa).

Finally, apply the formula: 1 owner x 1 beneficiary x $250,000 = $250,000. Therefore, the maximum deposit insurance coverage for this revocable trust account is $250,000, **not $500,000.**

Example 21: POD account with one owner with one beneficiary				
Owner	**Beneficiary**	**Maximum Amount That Can be Allocated to a Beneficiary**	**Insured Amount**	**Uninsured Amount**
John	Lisa	$250,000	$250,000	$0
Total		**$250,000**	**$250,000**	**$0**

2. Counting the Same Beneficiary More than Once When Named on Multiple POD Accounts

Some depositors and bankers believe that the FDIC will count a named beneficiary more than once if the beneficiary is named on multiple POD accounts. This is incorrect. The FDIC regulations provide that in determining coverage for revocable trust accounts, an owner receives $250,000 in deposit insurance coverage for each *unique* beneficiary identified. As illustrated in the following example, if an owner identifies the same beneficiary on multiple revocable trust accounts, there would be only one unique beneficiary and thus, for determining coverage, that one beneficiary would only be counted once.

Example 22

Facts:

John Jones opened three payable on death accounts, and on the first account he named his daughter Alice as a beneficiary. On the second account, John named his daughter Betty and again his daughter Alice as his beneficiaries. Finally, on the third account, he named his daughter Cindy and again named Betty as his beneficiaries. Assuming these are the only revocable trust accounts that John has at this IDI, what is the maximum insurable amount for these deposits?

Rule:

(a) The rule for calculating deposit insurance coverage for five or fewer beneficiaries is the number of owners times the number of eligible beneficiaries times $250,000.

(b) A beneficiary is only counted once in determining coverage.

Answer:

There are only three unique persons named as beneficiaries on the accounts— that is, Alice, Betty and Cindy. In calculating FDIC deposit insurance coverage, a named beneficiary is counted only once. The calculation is to take the number of owners—one in this case—and multiply it by three, which is the total number of unique eligible beneficiaries. Therefore, one owner times three beneficiaries times $250,000 equals a total maximum insurable amount of $750,000.

Example 22: POD account with same beneficiaries on multiple POD accounts			
Owner	**Beneficiary**	**Insured Amount**	**Uninsured Amount**
John Jones	Alice		
John Jones	Betty, Alice		
John Jones	Cindy, Betty		
Total		**$750,000**	$0

XII. Conversion of a Formal Revocable Trust to an Irrevocable Trust Upon the Death of the Trust Owner

In general, depositors with a revocable trust account that becames an irrevocable trust account as a result of the death of a grantor should deposit no more than a maximum of $250,000 at each IDI. If your client has such a trust, the FDIC recommends calling and speaking with a deposit insurance subject matter expert to determine coverage. For additional discussion of these rules, please contact the FDIC at 1-877-275-3342.