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Estate Planning: Protecting Your "Family Fortune" Through FDIC-Insured Bank Accounts

How to pass funds on to your heirs and make sure you're fully covered by federal deposit insurance, including new rules for "living trust" accounts

There are many reasons you've worked hard and saved money all these years, and one motivating factor is likely to be a desire to provide for your loved ones after you die. But have you given much thought to the best ways to pass along your built-up savings and other assets to your heirs?

There's a term for the process of organizing your financial affairs so that your money, property and other assets can go to your heirs with a minimum of costs, taxes and hassles. It's called "estate planning." For many of us, that probably means making and periodically updating a will. However, there are many different ways to help preserve assets for your heirs — trusts (specific arrangements for setting money or property aside for the benefit of another person), bank accounts, investments and so on — each with its own pros, cons and costs.

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FDIC Consumer News can't advise you on what method of estate planning is best for you — that's more appropriate for an accountant, lawyer, financial planner or other advisor who is experienced in estate tax issues and estate planning. But we can help you think more about how you can use FDIC-insured deposit accounts to achieve your estate-planning goals. We also can help you understand how these different options are protected by the FDIC, including new, simpler rules for the insurance coverage of deposits held by a "living trust."

Why is FDIC insurance coverage an important factor to consider in your estate planning? If you are like most people who have saved for your retirement or your heirs, you are concerned about the safety of your money. That's one of the main reasons many seniors and other people put significant sums in FDIC-insured deposits. Regrettably, some

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depositors in recently failed banks were retired people who thought they were fully covered by FDIC insurance... until their bank failed and they got the disturbing news that some of their money was over the federal insurance limit.

To help you better understand how bank deposits may be used to pass savings on to your heirs and how FDIC coverage works, here's an overview.

Payable-on-Death (POD) Accounts: These accounts, sometimes called testamentary, Totten trust or in-trust-for accounts, can be set up at a banking institution with a simple, written declaration from you (usually on the "signature card" in the bank's records) that the funds will belong to one or more named beneficiaries upon your death. If properly titled, a traditional certificate of deposit (CD), other savings account or even a checking account can be set up as a POD account.

POD accounts and living trusts (described in the next section) are both types of "revocable" trust accounts, which are relatively flexible types of trust accounts in which the depositor retains the right to revoke the trust. "The word 'trust' suggests there are limits on your use of the money, but there are no real limits," says FDIC attorney Christopher Hencke. "The money is still yours to spend, save or invest, and you can even change your mind about who should inherit the funds."

Perhaps the biggest reason people establish POD accounts (and other accounts described in this article) is that, upon the death of the owner, the assets often can pass to loved ones without going through probate, which is the process of distributing your assets through an estate administrator. Avoiding probate can minimize delays, legal expenses or other potential problems (such as a contested will) in transferring assets to heirs. Depending on your state's laws, though, it's possible that a POD account may still be subject to the requirements in your will and probate proceedings.

Also, a POD account, unlike a living trust and certain other trusts, is simple and easy to establish, and there's no need to pay an attorney to draw up a formal trust document. "The simplicity of the payable-on-death account makes it the most common type of revocable trust account," says FDIC attorney Joe DiNuzzo. "A POD account has no trust agreement — the only documentation is the bank signature card on which the owner designates the beneficiaries."

Yet another attraction of a POD account (as well as a living trust) is that, in most cases, the FDIC's rules provide additional insurance coverage beyond the basic type of bank account. Here's how. Even though the depositor is recognized as the owner of the funds, the FDIC insures POD and other revocable trust accounts (including living trusts) *up to $100,000 for each "qualifying" beneficiary* ($200,000 if there are two qualifying beneficiaries, $300,000 if there are three, and so on). Which beneficiaries qualify? Under the FDIC's rules, they are a depositor's spouse, child, grandchild, parent or sibling. Stepparents, stepchildren, adopted children and similar relationships also qualify.

What happens if you name a non-qualifying beneficiary, such as a niece, nephew, cousin, in-law, friend or charitable organization? The portion payable to a non-qualifying beneficiary would be added to any accounts you have at the bank in the single (or individual) account category and that total will be insured to $100,000. Example: A $200,000 POD account naming the owner's two nieces as the beneficiaries would not be insured in the revocable trust category. Instead, the $200,000 would be insured as the depositor's single-ownership funds. The $200,000 would be added to any other single-ownership funds the depositor has at the bank and the total would be insured for $100,000.

If a POD account is owned by two people, FDIC insurance will be determined as if each co-owner had a separate account. This means if two parents have a joint POD account naming their three children as beneficiaries, it would be insured up to $600,000 (with $300,000 assigned to each parent).

These revocable trust accounts also are separately insured from any other accounts (individual, joint, retirement) that a depositor has at the same institution. But be aware that the POD accounts and other revocable trust accounts you have at one institution, including any living trust accounts, are added together for FDIC insurance purposes and covered up to $100,000 per qualifying beneficiary. For example, if a father has a POD account naming his son and daughter as beneficiaries and he also has a living trust account naming the same beneficiaries, the funds in both accounts would be added together and the total insured up to $200,000 ($100,000 for each qualifying beneficiary).

Living Trust Accounts: As mentioned, a living trust account is comparable to a POD account in that you still have control over the money and the assets will transfer directly to the beneficiaries instead of going through probate. However, a living trust account is very different from a simple POD account in that the money is deposited in connection with a formal, legal document typically called a living trust or a family trust and drafted by an attorney.

Among the potential benefits of a living trust over, say, a POD account: It can be useful if you want to make sure that a particular beneficiary does not get unconditional control over your funds. For example, many people specify in living trusts that the bank deposit (or other property or assets) will pass to the named beneficiaries only when they reach a certain age or graduate from college. A living trust also can cover a variety of assets, not just bank accounts. And if you become ill and incapacitated, a living trust can allow someone else to manage your financial affairs.

However, experts warn that living trusts are not for everyone. Paying to draw up a living trust could cost hundreds or thousands of dollars, and sometimes the potential benefits may not outweigh the costs, especially depending on your state's inheritance laws and your financial situation. According to the Federal Trade Commission (FTC), "for some people, a living trust can be a useful and practical tool, but for others, it can be a waste of money and time."

The FTC also has warned that some people and businesses have exaggerated or misrepresented the benefits of living trusts, often in advertisements or seminars, to sell trusts or other products to people who don't need them. "Misinformation and misunderstanding about estate taxes and the length or complexity of probate provide the perfect cover for scam artists who have created an industry out of older people's fears that their estates could be eaten up by costs or that the distribution of their assets could be delayed for years," the FTC says. (See *Living Trust Offers: How to Make Sure They're Trustworthy* at www.ftc.gov/bcp/conline/pubs/services/livtrust.htm or call toll-free 877-382-4357.)

Under the FDIC's rules, living trust accounts are insured the same as POD accounts — both types of accounts will be combined and insured for up to $100,000 for each qualifying beneficiary.

While the insurance rules for living trust accounts recently were simplified (see above), depositors still need to be careful. "That's because living trusts often contain provisions tailored to the owner's specific needs and desires about how the trust assets will be distributed upon his or her death," says Kathleen Nagle, a supervisor with the FDIC's Division of Supervision and Consumer Protection. "The terms of the trust can affect the insurance coverage, so it's important to understand how the FDIC's rules would apply to a particular living trust account."

For example, she says, some living trusts name "primary" beneficiaries who will inherit the trust assets when an owner dies as well as "secondary" beneficiaries in case a primary beneficiary dies before the owner passes away. Under the FDIC insurance rules, coverage is provided only for those qualifying beneficiaries who would be entitled to receive the trust's assets when the owner dies (generally the primary beneficiaries). Unless a primary beneficiary were to die before the owner passes away, no coverage would be provided for any secondary beneficiaries.

It also is important to note that FDIC insurance coverage "is based on the actual interest of each qualifying

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New Insurance Rules for Living Trusts

The FDIC recently adopted new rules that simplify the insurance coverage of deposits held by living trusts (see Page 2). The new rules, which take effect on April 1, 2004, are simpler than the existing rules and help depositors and bankers determine insurance coverage more easily.

Under the new rules, the FDIC will provide insurance coverage for payable-on-death (see Page 2) and living trust accounts combined for up to $100,000 for each qualifying beneficiary even if the living trust contains conditions on the inheritance, such as a requirement that a beneficiary must graduate from college before receiving any money. This is an important change because the old FDIC rules imposed limits on the insurance coverage if the trust contained such conditions, and that distinction was a source of confusion for both consumers and bankers. "This simplification of the rules will make it much more likely that families with living trust accounts will be fully protected by the FDIC if their bank fails," says FDIC Chairman Don Powell.

In addition, Martin Becker, a senior official in the FDIC division that handles bank failures, says that "the new rules should speed up deposit insurance determinations on living trusts and, therefore, enable these depositors to obtain their insured funds more quickly."

The new rules also eliminate a previous requirement that beneficiaries of living trust accounts be named in the bank's records. This means that banks no longer have to keep copies of the depositor's living trust document. However, the account title must indicate that the funds are held by a living trust.

For more information, go to the FDIC Web site or contact the FDIC (see next page). For example, the FDIC has issued a fact sheet with examples of how different kinds of living trust accounts would be insured under the new rules (available at www.fdic.gov/news/news/financial/2004/fil1404b.html).

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beneficiary in the living trust account," adds FDIC attorney DiNuzzo. "This means that if the beneficiaries have unequal interests in the trust — say, 50 percent of the assets are to go to the owner's spouse and 25 percent to each of his children — the FDIC will apply the $100,000 limit to each beneficiary's share." Also, as with POD accounts, any living trust deposits for non-qualifying beneficiaries (such as a cousin or nephew) would be insured with the depositor's individual accounts, *not* on a $100,000-per-beneficiary basis.

Joint Accounts: These are deposit accounts — checking, savings or CDs — jointly owned by two or more people. A joint account indicating a "right of survivorship" allows the funds in the account to pass to the surviving co-owner without going through probate when one of the co-owners dies. With a joint account, the owners have access to the funds in an emergency or, for that matter, at any time.

In addition, each person's share in all joint accounts at an institution is protected by FDIC insurance up to $100,000. So, if two people own a joint account, and they had no other joint accounts at the same bank, that account would be FDIC-insured up to $200,000 ($100,000 for each owner), separately from other accounts (single accounts, PODs and so on) at the same bank. Note that to qualify for this coverage, every co-owner must have equal rights to withdraw funds and must sign the account's signature card at the bank (unless the account is a CD).

On the other hand, some people may not want to give joint ownership of funds to another person, no matter what the insurance benefits may be. "We always caution people not to open up joint accounts with others just to qualify for additional insurance coverage," says Nagle. "You need to remember that by establishing a joint account with another person, you are giving him or her equal ownership of the funds. This other person will have as much right to the money as you do, and you shouldn't take that fact lightly."

Retirement Accounts: Thanks in part to Individual Retirement Accounts (IRAs), Keogh accounts (for the self-employed), employer-sponsored pension or profit-sharing plans, "401(k)" accounts and other vehicles that help Americans save for their golden years, it's possible to gradually accumulate a fairly large sum of money to pass along to your heirs. In general, you can expect that retirement funds you designate for beneficiaries will pass to those heirs without going through probate.

Under the FDIC's rules, your IRA and self-directed Keogh deposits (those over which you have control) at the same bank are added together and insured up to $100,000. Employee benefit-plan accounts (pension plans and profit sharing) at the same bank are typically insured separately from IRA and Keogh funds. In addition, these retirement accounts are insured separately from your funds in other types of deposit accounts, such as individual, joint and POD accounts.

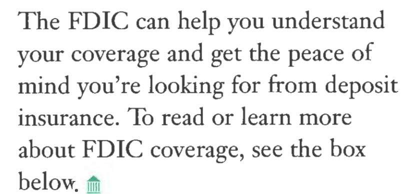
But remember this: Retirement accounts — unlike POD and living trust accounts — do *not* qualify for extra coverage by adding additional beneficiaries. Insurance is capped at $100,000 per owner. To get more insurance for your retirement money, you'd need to divide the money among different insured institutions.

Final Thoughts

If you or your family has $100,000 or less in all your deposit accounts at the same insured institution, you don't have to worry — you're fully protected. But if you have funds at one institution totaling more than $100,000, you'd be smart to understand how to protect yourself with FDIC insurance. For example, each person's deposits in different ownership categories — single, joint, retirement, revocable trust (POD and living trust) accounts — at the same institution are each *separately* insured to $100,000. That means you could have far more than $100,000 at one insured institution and still be fully protected.

Also be aware that a change in your family's situation, such as a divorce or the death of an account owner or beneficiary, could significantly increase or, more often, decrease the amount of your FDIC insurance coverage.

The FDIC can help you understand your coverage and get the peace of mind you're looking for from deposit insurance. To read or learn more about FDIC coverage, see the box below.



For More Information about FDIC Insurance

- Go to the FDIC Web site at www.fdic.gov.
- Call our toll-free consumer assistance line at 877-275-3342 (or 800-925-4618 for the deaf/hard-of-hearing). The phone line is staffed Monday through Friday, 8:00 a. m. to 8:00 p. m., ET.
- E-mail your questions using the FDIC's Customer Assistance Form at www2.fdic.gov/starsmail/index.asp.
- Send a letter to FDIC, Division of Supervision and Consumer Protection, 550 17th Street, NW, Washington, DC 20429-9990.

When Internet Scam Artists Go "Phishing," Don't Take the Bait

How to avoid being lured into giving out personal information

Law enforcement officials use the word "phishing" to describe a type of identity theft by which scammers use fake Web sites and e-mails to fish for valuable personal information from consumers. The FBI also is calling it the "hottest and most troubling new scam on the Internet." Even the FDIC's good name was used fraudulently in a phishing scheme.

In the typical phishing scam, you receive an e-mail supposedly from a company or financial institution you may do business with or from a government agency. The e-mail describes a reason you must "verify" or "re-submit" confidential information — such as bank account and credit card numbers, Social Security numbers, passwords and personal identification numbers (PINs) — using a return e-mail, a form on a linked Web site, or a pop-up message with the name and even the logo of the company or government agency. Perhaps you're told that your bank account information has been lost or stolen or that limits may be imposed on your account unless you provide additional details. If you comply, the thieves hiding behind the seemingly legitimate Web site or e-mail can use the information to make unauthorized withdrawals from your bank account, pay for online purchases using your credit card, or even sell your personal information to other thieves.

"These thieves are very good at convincing you that you are receiving a legitimate message or using a Web site from a trusted source," says Michael Benardo, a manager in the FDIC's Technology Supervision Branch.

While federal and state laws and industry practices generally limit dollar losses for unauthorized transfers from accounts, if an ID thief uses your name to commit fraud you are likely to spend a great deal of time and money — sometimes hundreds or thousands of dollars — correcting your credit files or otherwise defending yourself. Therefore, it's very important to be on guard against phishing scams and other types of Internet fraud.

Never provide your personal information in response to an unsolicited call, fax, letter, e-mail or Internet advertisement. "If you did not initiate the communication, do not give this information, regardless of how legitimate or genuine these people or entities may appear to be," says William Henley, Jr., an FDIC electronic banking specialist.

If you decide to initiate a transaction with a bank or other entity on the Web, take some simple precautions. Don't provide personal information to a Web site using a link from an e-mail or an Internet advertisement, no matter how legitimate it may appear. "Clicking on a link in an e-mail or an Internet ad is very risky," says Donald Saxinger, another FDIC electronic banking specialist. "You're always safer typing in the URL (Web address) from scratch, assuming you type it in correctly." The problem with typing a URL incorrectly or guessing about a Web address is that some fraudulent, copycat sites deliberately use URLs that are very similar to, but not the same as, those for well-known companies or government agencies. When contacting your bank, for example, use the phone number or Web address listed on your monthly statements or other literature from the institution.

Quickly report anything suspicious to the proper authorities. Report any questionable e-mail message or Web site to the real bank, company or government agency, using a phone number or e-mail address from a reliable source. Example: If your bank's Web page looks different or unusual, contact the institution directly to confirm that you haven't landed on a copycat Web site set up by criminals. "Customer inquiries about changes to a Web site are one of the most prevalent ways that banks and other organizations are finding out about unauthorized sites containing the look and feel of a legitimate Web site," says Paul Onischuk, also an FDIC electronic banking specialist. And if you're pretty sure an e-mail or Web site is fraudulent, contact the Internet Crime Complaint Center (www.ifccfbi.gov), a partnership between the FBI and the National White Collar Crime Center.

What if you believe you're already a victim of ID theft, perhaps because you submitted personal information in response to a suspicious, unsolicited e-mail or you spotted unauthorized charges on your credit card? Immediately contact your financial institution and, if necessary, close existing accounts and open new ones. Also contact the police and request a copy of any police report or case number for later reference. In addition, call the three major credit bureaus (Equifax at 800-525-6285, Experian at 888-397-3742 and TransUnion at 800-680-7289) to request that a fraud alert be placed on your credit report.

You also can file a complaint or learn more about ID theft by going to the Federal Trade Commission Web site at www.ftc.gov or calling toll-free 877-382-4357.

New Proof of Identity Required When Opening Accounts

Don't be surprised if the next time you open a deposit, loan or other account at a bank or other financial institution you have to spend additional time proving your identity. That's because the U.S. Treasury Department and federal financial regulatory agencies (including the FDIC) have jointly issued new rules for customer identification that implement the USA PATRIOT Act of 2001, a law intended to help fight terrorism.

Under the rules, which became mandatory October 1, 2003, financial institutions generally are required to ask each customer for their name, address, date of birth and tax identification number (usually a Social Security number) when opening a new account. Foreign nationals without a U.S. taxpayer ID number could provide a similar government-issued identification number, such as a passport number.

You also will be asked to provide documentation, such as a driver's license or passport, "so the financial institution can verify that you are who you say you are," says Karen Currie, an FDIC fraud investigator and anti-money laundering specialist. The institution also can verify your identity through alternate methods, such as your credit report from a credit bureau.

Identification procedures may vary depending upon the type of account you are opening and the policies of your financial institution. For example, some institutions may require you to provide copies of certain documents through the mail if you are not opening an account in person.

Finally, the financial institution must check if your name appears on any list of suspected terrorists or terrorist organizations.

"These new procedures are designed to prevent money laundering and other crimes, such as identity theft and account fraud that terrorists commit to fund their operations," Currie adds. "We know you're usually in a hurry to fill out all the paperwork and to complete your financial transactions, but with such an important requirement designed to protect the public, your patience is greatly appreciated."

Beware of Bogus Debt Elimination Scams

If an Internet site or other advertisement offers to sell you a document you can use to "legally" eliminate an outstanding credit card balance or other debt, don't believe it.

U.S. government and banking industry reports indicate a variety of schemes on the Internet and elsewhere promoting programs that, for a significant fee (sometimes thousands of dollars), fraudulently claim to enable borrowers to stop payments on a debt simply by giving the lender a specially-prepared document. Many of these offers also cite false claims about the Federal Reserve System, U.S. currency or other federal or state government programs as the legal justification for their debt elimination program.

The bottom line: These documents are bogus and a waste of money. If you come across this scam on the Internet or elsewhere, consider reporting the details to the FBI by calling the regional office listed in your phone book or contacting the Internet Crime Complaint Center at www.ifccfbi.gov.

If you want more information about legitimate ways to get out of debt safely and avoid debt-related scams, see "Weathering a Financial Storm" in the Winter 2001/2002 issue of ***FDIC Consumer News***, online at www.fdic.gov/consumers/consumer/news/cnwin0102/cvrstry.html.

Fraudulent Ads Use Official Bank Logos

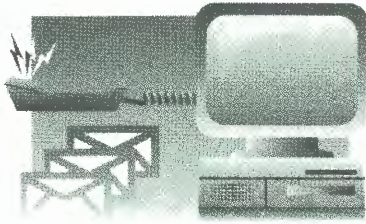
The FDIC has warned consumers about fraudulent newspaper advertisements featuring official bank logos in attempts to trick consumers into wiring advance payments for loans or providing personal information.

In the typical scheme, ads for mortgages, small business loans, debt consolidation offers and other loans are placed in small-market or community newspapers. Consumers who call a phone number in the ad are asked to provide application information, including a Social Security number, to a "third-party consultant" who later says the loan is "granted." A loan package then is faxed to the victim along with a request for bank account information and a faxed copy of a driver's license and Social Security card.

Victims of the scam also may be asked to make an advance payment or deposit by wire transfer outside the banking system (such as through Western Union), not to the legitimate bank supposedly making the loan. The FDIC has received reports that a number of unsuspecting consumers have applied for these fraudulent loans and wired payments.

If you believe you have been victim of this scam, contact your financial institution, the local police and the three major credit bureaus, as noted on Page 5.

For More Information



The **Federal Deposit Insurance Corporation** insures deposits at banks and savings associations and supervises state-chartered banks that are not members of the Federal Reserve System. The FDIC's services include a toll-free consumer assistance line, answers to written questions, and informational material. Toll-free phone: (877) ASK-FDIC or (877) 275-3342. The phone line is staffed Monday through Friday, 8:00 a.m. to 8:00 p.m., Eastern Time. Recorded information is available 24 hours a day. The toll-free TTY number for the deaf/hard-of-hearing is (800) 925-4618. Home Page: www.fdic.gov. Mail: 550 17th Street, NW, Washington, DC 20429.

For questions about deposit insurance coverage: Contact the FDIC Division of Supervision and Consumer Protection at the address and phone numbers above or by e-mail using the Customer Assistance Form on the Internet at www2.fdic.gov/starsmail/index.html. The National Credit Union Administration (listed below) insures deposits at federally insured credit unions.

For other questions, including those about consumer protection laws, or complaints involving a specific institution: First attempt to resolve the matter with the institution. If you still need assistance, write to the institution's primary regulator listed on this page. Although the FDIC insures nearly all banks and savings associations in the United States, the FDIC may not be the primary regulator of a particular institution. Other regulators are listed below. To submit a complaint about an FDIC-supervised institution, contact the FDIC Division of Supervision and Consumer Protection as listed above. For inquiries involving problems or complaints related to the FDIC, contact the FDIC Office of the Ombudsman at the mailing address and phone numbers listed above, by fax to (202) 942-3040, or by e-mail to ombudsman@fdic.gov.

The **Federal Reserve System** supervises state-chartered banks that are members of the Federal Reserve System. Phone: (202) 452-3693. Fax: (202) 728-5850. Home Page: www.federalreserve.gov. E-mail: www.federalreserve.gov/feedback.cfm. Mail: Division of Consumer and Community Affairs, 20th Street and Constitution Avenue, NW, Mail Stop 801, Washington, DC 20551.

The **Office of the Comptroller of the Currency** charters and supervises national banks. (The word "National" appears in the name of a national bank, or the initials "N. A." follow its name.) Phone: (800) 613-6743. Fax: (713) 336-4301. Home Page: www.occ.treas.gov. E-mail: consumer.assistance@occ.treas.gov. Mail: Customer Assistance Group, 1301 McKinney Street, Suite 3710, Houston, TX 77010.

The **Office of Thrift Supervision** supervises federally and state-chartered savings associations plus federally chartered savings banks. (The names generally identify them as savings and loan associations, savings associations or savings banks. Federally chartered savings associations have the word "Federal" or the initials "FSB" or "FA" in their names.) Phone: (800) 842-6929 or (202) 906-6237. Home Page: www.ots.treas.gov. E-mail: consumer.complaint@ots.treas.gov. Mail: Consumer Affairs Office, 1700 G Street, NW, Washington, DC 20552.

The **National Credit Union Administration** charters and supervises federal credit unions, and insures deposits at federal credit unions and many state credit unions. Phone: (703) 518-6330. Fax: (703) 518-6409. Home Page: www.ncua.gov. E-mail: pacamail@ncua.gov. Mail: Office of Public and Congressional Affairs, 1775 Duke Street, Alexandria, VA 22314.

Your state government also may offer assistance and publish useful information. Contact your state's Attorney General's office, consumer protection office or financial institution regulatory agency as listed in your phone book or other directories, or visit your state's official Web site.

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A Final Exam

Test your knowledge by taking a quiz based on information in this issue

1. Estate planning is a term to describe organizing your financial affairs so that money, property and other assets can go to your heirs in an efficient manner.
True or False?

2. The only way to ensure that a bank account passes to your heirs with a minimum of costs, taxes and hassles is to obtain a formal legal document called a "living trust."
True or False?

3. Recent changes in the FDIC's insurance rules make it more likely that a family's deposits held by a living trust will be fully protected if their bank fails. This is because the FDIC will no longer impose limits on the insurance coverage if the trust contains conditions on when the funds could pass to a beneficiary.
True or False?

4. John has both a payable-on-death trust account and a "living trust" account at the same bank. Both trusts name the same three people — John's wife and two children — as equal beneficiaries. Under the FDIC's rules, both accounts are combined for insurance purposes and protected up to $300,000 — $100,000 for each beneficiary.
True or False?

5. If you receive an e-mail requesting you to re-submit your Social Security number and bank account information to a bank or company you may do business with, it's safe to provide this information as long as the e-mail includes the name and logo of that entity.
True or False?

6. Under new U.S. rules to help fight terrorism, financial institutions generally are required to ask for a Social Security number or other taxpayer identification number before opening a deposit, loan or other account.
True or False?

Correct answers:

1. True (See Page 1)
2. False (See Page 1)
3. True (See Page 3)
4. True (See Pages 2)
5. False (See Page 5)
6. True (See Page 6)

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