

Attachment

FDIC Insurance Coverage of Living Trust Accounts Information Sheet

On January 13, 2004, the FDIC adopted new rules for insurance coverage of living trust accounts. The new rules, which are effective on April 1, 2004, are summarized below.

What is a living trust?

A living trust (or family trust) is a formal revocable trust, usually set up by an attorney, in which the owner (also known as a grantor or settlor) specifies who will receive the trust assets when the owner dies. The owner keeps control of the trust assets during his or her lifetime and can change the trust at any time.

How are living trust accounts insured under the new FDIC rule?

The owner of a living trust account would be insured up to \$100,000 per beneficiary if all of the following requirements are met:

- **The beneficiary must be the owner's spouse, child, grandchild, parent or sibling.** Stepparents and stepchildren, adopted children and similar relationships also qualify. In-laws, cousins, nieces and nephews, friends, and charitable organizations do not qualify.
- **The beneficiary must become entitled to his or her interest in the trust when the owner dies** -- coverage would be based on the beneficiaries who meet this requirement at the time the bank fails. *Example:* A living trust names an owner's three children as beneficiaries but states that each beneficiary's share will pass to the beneficiary's children if the beneficiary dies before the owner. Assuming all three children are alive at the time the bank fails, only the children -- not the grandchildren -- would be beneficiaries for insurance purposes. (That's because the grandchildren are not entitled to any trust assets while their parent is alive.) Coverage up to \$300,000 (\$100,000 per beneficiary) would be available on the trust's deposit accounts.
- **The account title at the bank must indicate that the account is held by a living trust.** This rule can be met by using the terms "living trust" or "family trust" in the account title.

Coverage is based on the actual interests of each qualifying beneficiary. Unless the trust states otherwise, the FDIC will assume that the beneficiaries have an equal interest in the living trust account. *Example:* A father has a living trust leaving all trust assets equally to his three children. This trust's account would be insured up to \$300,000 since there are three qualifying beneficiaries who would become owners of the trust assets when the owner dies.

How does the new rule differ from the old rule?

Previously, many living trusts did not qualify for per-beneficiary coverage because they contained conditions that prevented a qualifying beneficiary from actually receiving his or her share of the trust assets when the owner died. Under the new rule, the FDIC will ignore these conditions for insurance purposes. In addition, the former rule required banks to keep the names of the trust beneficiaries in the bank's account records. Under the new rule, a bank only needs to indicate in the account title that the account is held by a living trust. Note: The rule for payable on death - or POD -- accounts has not changed: the names of the beneficiaries of a

POD account still must be identified in the bank's records.

What if a living trust has more than one owner?

If a living trust has more than one owner, coverage would be up to \$100,000 per qualifying beneficiary for each owner, provided the beneficiary would be entitled to receive the trust assets when the last owner dies. *Example:* A husband and wife are co-owners of a living trust. The trust states that upon the death of one spouse the funds will pass to the surviving spouse, and upon the death of the last owner the funds will pass to their three children equally. This trust's deposit account would be insured up to \$600,000.

What if a beneficiary is not the owner's spouse, child, grandchild, parent or sibling?

The trust interest of a non-qualifying beneficiary is insured as the owner's single ownership funds and would be added to any other single ownership funds the owner may have at the same bank, and the total would be insured up to \$100,000. *Example:* A living trust states that the trust assets will belong equally to the owner's husband and nephew upon her death. If the trust's account has a balance of \$200,000, her husband's share -- \$100,000 -- would be insured as her revocable trust funds and her nephew's share -- \$100,000 -- would be insured as her single ownership funds. If, for example, the owner already had a single ownership account for \$20,000, the nephew's interest (\$100,000) would be added to her other single ownership funds and the total would be insured for \$100,000, leaving \$20,000 uninsured.

How is a beneficiary's life estate interest insured?

Living trusts often give a beneficiary the right to receive income from the trust or to use trust assets during the beneficiary's lifetime (known as a life estate interest). When the beneficiary with the life estate interests dies, the remaining assets pass to other beneficiaries. Unless otherwise indicated in the trust, the FDIC will assume that a beneficiary with a life estate interest owns an equal share of the trust with the other beneficiaries. *Example:* A husband creates a living trust giving his wife a life estate interest in the trust assets with the remaining assets going to their two children equally upon his wife's death. Deposits for this trust could be insured up to \$300,000 (\$100,000 for each qualifying beneficiary - the wife and two children).

Are living trust accounts and "payable on death" accounts separately insured?

The \$100,000 per-beneficiary insurance limit applies to all revocable trust accounts - payable on death (POD) and living trust accounts - that an owner has at the same bank. *Example:* A father has a POD account naming his son and daughter as beneficiaries and he 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 per qualifying beneficiary).

How can I get more information about insurance coverage of living trust accounts?

- Call toll-free at 1-877-ASK-FDIC (1-877-275-3342) or 1-800-925-4618 (TTD)
- E-mail using the FDIC Customer Assistance Form at www2.fdic.gov/starsmail/index
- Mail questions to: FDIC-DSC, 550 17th Street, NW, Washington, DC 20429-9990