FDIC Comprehensive Seminar On Deposit Insurance Coverage For Bankers

March 23, 2011

Outline

Part 1 – Overview of Recent Rule Changes

Part 2 – General Principles

Part 3 – Ownership Categories

Part 4 – Ownership Category Requirements

Part 5 – Fiduciary and Agency Accounts

Part 6 – Issues When An FDIC-Insured Bank Merges or Fails

Part 7 – Deposit Insurance Coverage Resources

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PART 1

OVERVIEW OF
RECENT RULE CHANGES

Recent Deposit Insurance Coverage Rules

- **Revocable Trusts**
  - September 26, 2008 – Amended on October 19, 2009 – New revocable trust rules: include account title requirements, beneficiary designations, coverage calculations
- **Standard Maximum Deposit Insurance Amount**
  - October 03, 2008 – Extended on May 20, 2009 – Temporary increase of the “standard maximum deposit insurance amount” (“SMDIA”) from $100,000 to $250,000 through December 31, 2013
  - July 22, 2010 – Permanent increase of the SMDIA to $250,000 with a retroactive effective date of January 1, 2008
- **Mortgage Servicing Deposits**
  - October 10, 2008 – Amended on October 19, 2009 – New regulatory change approved for calculating coverage for Principal and Interest (“P&I”) mortgage servicing escrow deposits

Recent Deposit Insurance Coverage Rules

- **Transaction Account Guarantee Program (TAGP)**
  - October 14, 2008 – Last amended on April 19, 2010 – Temporary changes approved for unlimited deposit insurance coverage for noninterest-bearing transaction accounts
  - **Important! This program ended on December 31, 2010**
- **Dodd-Frank Wall Street Reform and Consumer Protection Act**
  - July 22, 2010 – Permanent increase of the SMDIA to $250,000 with a retroactive effective date of January 1, 2008
  - From December 31, 2010 through December 31, 2012 unlimited coverage provided for all noninterest-bearing transaction accounts

    Important! The unlimited coverage under the Dodd-Frank Act is separate from, and in addition to the insurance coverage provided for a depositor's other accounts held at an FDIC-insured bank

PART 2

GENERAL PRINCIPLES

General Principles

Basic Insurance Coverage

- The Standard Maximum Deposit Insurance Amount ("SMDIA") is $250,000

    Under 12 C.F.R. § 330.1(n), adjusted pursuant to subparagraph (F) of section 11(a)(1) of the FDI Act (12 U.S.C. 1821(a)(1)(F))

- Coverage includes principal and interest earned up to the date of a bank's closing

Note: The examples in this presentation are interest-bearing accounts unless otherwise specifically indicated

General Principles

Basic Insurance Coverage

- Coverage includes principal and interest earned up to the SMDIA

Jane Smith	**Balance**
Principal Amount	$ 248,000
Accrued Interest	3,000
Total	**$ 251,000**
Insured	**$ 250,000**
Uninsured	**$ 1,000**

General Principles

FDIC Insures Only Bank Deposits	FDIC Does Not Insure Non-deposit Products
Checking Accounts	Stocks, Bonds, Municipal Bonds and Other Securities
NOW Accounts	Mutual Funds (money market mutual funds and stock, bond, or other security mutual funds)
Savings Accounts	Annuities
Money Market Deposit Accounts ("MMDAs")	Insurance Products (automobile & life insurance)
	Safe Deposit Box Contents
Certificates of Deposit	U.S. Treasury Bills, Bonds or Notes

General Principles

Coverage Per Depositor

- Deposit Insurance Coverage is calculated per depositor (owner of the deposit account)

- A depositor can be the following:
  - a person
  - a business/organization
  - a government entity

- A depositor does not have to be a citizen or resident of the United States to be eligible for deposit insurance coverage

General Principles

Deposit Account Records

- FDIC relies on bank deposit account records to determine ownership
- Examples of bank deposit account records may include:
  - Signature cards
  - Certificates of Deposit
  - Account ledgers and computer records that relate to the bank's deposit-taking function
  - Official items
  - Other books and records of the bank

General Principles

Coverage Per Bank

Deposit insurance coverage is also calculated per bank

- Deposits placed in the branch offices of a bank with the same charter are added together
- Deposits placed in separately chartered banks are separately insured
- Deposits in separate branches of a bank are <u>not</u> separately insured even if the branches are in different states

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General Principles

Death of an Account Owner

The death of an account owner will in most cases reduce the amount of insurance coverage

- If an account owner dies, for the purpose of calculating deposit insurance coverage, FDIC provides a six-month grace period during which the account will be insured as if the account owner had not died

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PART 3

OWNERSHIP CATEGORIES

Ownership Categories

Questions every bank employee must ask and answer to calculate FDIC deposit insurance coverage:

1) Who owns the funds?
2) What ownership category is the depositor eligible to use or attempting to use?
3) Does the depositor meet the requirements of that category?
4) Will any of the depositor's accounts meet the definition of a "noninterest-bearing transaction account"?

Ownership Categories

Who Owns the Funds?

Calculating the amount of FDIC deposit insurance coverage begins with determining who is the owner(s) of the deposit funds

FDIC deposit insurance is based on the ownership of the deposit funds—also referred to as an ownership capacity or ownership category

Ownership Categories

An "ownership category," also referred to as "right and capacity" in the deposit insurance regulations, is defined by either statute or by regulation and provides for separate FDIC deposit insurance coverage

If a depositor can meet the rules for a specific category, then their deposits will be entitled to both of the following:

1) Up to the SMDIA in deposit insurance coverage that is provided for under the ownership category, and
2) Separate coverage from funds that may be deposited under a different ownership category

Ownership Categories

Owners = Individuals

CATEGORY 1
SINGLE
ACCOUNTS

CATEGORY 2
JOINT
ACCOUNTS

CATEGORY 3
REVOCABLE
TRUST
ACCOUNTS

CATEGORY 4
IRREVOCABLE
TRUST
ACCOUNTS

CATEGORY 5
CERTAIN
RETIREMENT
ACCOUNTS

CATEGORY 6
EMPLOYEE
BENEFIT PLAN
ACCOUNTS

Owner = Business/Organizations

CATEGORY 7
CORPORATION
PARTNERSHIP
UNINCORPORATED
ASSOCIATION ACCOUNTS

Owners = Government Entities or Political Subdivisions

CATEGORY 8
GOVERNMENT
ACCOUNTS

CATEGORY 9
PRINCIPAL & INTEREST
FUNDS IN
MORTGAGE SERVICING
ACCOUNTS

CATEGORY 10
NONINTEREST-BEARING
TRANSACTION ACCOUNTS

PART 4

OWNERSHIP CATEGORY REQUIREMENTS

Ownership Category Requirements

Owners = Individuals

CATEGORY 1 SINGLE ACCOUNTS	CATEGORY 2 JOINT ACCOUNTS	CATEGORY 3 REVOCABLE TRUST ACCOUNTS
CATEGORY 4 IRREVOCABLE TRUST ACCOUNTS	CATEGORY 5 CERTAIN RETIREMENT ACCOUNTS	CATEGORY 6 EMPLOYEE BENEFIT PLAN ACCOUNTS

Hypothetical Signature Card

SIGNATURE CARD FOR DEPOSIT ACCOUNTS

Account Title

Account Number

TIN of First Name on Account or Legal Entity

Signature	Title
Printed Name	Date
Signature	Title
Printed Name	Date

ACCOUNT DESCRIPTION

- ☐ Personal Account
- ☐ Non-Personal Account

- ☐ Individual / Single
- ☐ Estate
- ☐ Individual Unincorporated (e.g. DBA)
- ☐ Joint With Survivorship
- ☐ Joint No Survivorship
- ☐ POD / ITF / Totten
- ☐ Revocable Trust
- ☐ Irrevocable Trust
- ☐ Corporation / Partnership / LLC
- ☐ Non-Profit
- ☐ Government

- ☐ Fiduciary

ACCOUNT BENEFICIARIES

Name of Beneficiary

Name of Beneficiary

Name of Beneficiary

POWER OF ATTORNEY (POA)

Signature of Agent

Printed Name of Agent

Signature of Account Owner

Date

SELF DIRECTED RETIREMENT ACCOUNT ENROLLMENT

ACCOUNT TYPE

☐ Traditional IRA	☐ Inherited IRA
☐ Roth IRA	☐ Inherited Roth IRA
☐ SIMPLE IRA	☐ Rollover IRA
☐ SEP IRA	☐ Keogh

Name	SSN	
Address	DOB / /	
	Home Phone	
	Business Phone	
City	State	Zip

BENEFICIARIES

Name and Address	Relationship	DOB	SSN	Share
1				
2				
3				
4				

CUSTOMER AGREEMENT

Signature	Date

CUSTODIAN / TRUSTEE ACCEPTANCE

Signature	Date

Hypothetical Signature Card

Ownership Categories

(Cat. 1) **Single Accounts**
- Individual / Single
- Estate
- Individual Unincorporated (e.g. DBA)

(Cat. 2) **Joint Accounts**
- Joint With Survivorship (JTWROS)
- Joint No Survivorship (TIC)

(Cat. 3) **Revocable Trust Accounts**
- POD / ITF / Totten (Informal)
- Revocable Trust (Formal)

(Cat. 4) **Irrevocable Trust Accounts**
- Irrevocable Trust

(Cat. 7) **Corporation, Partnership, Unincorporated Association Accounts**
- Corporation / Partnership / LLC
- Non-Profit

(Cat. 8) **Public Unit/Government Accounts**
- Government

NOT AN OWNERSHIP CATEGORY - Insurance coverage "passes through" the fiduciary to the actual owner, based on how the funds are held
- Fiduciary (Broker, IOLTA, UTMA, etc.)

(Cat. 5) **Certain Retirement Accounts***
- Traditional IRA
- Roth IRA
- SIMPLE IRA
- SEP IRA
- Inherited IRA
- Inherited Roth IRA
- Rollover IRA
- Keogh

***Note: Self-directed defined contribution plans are included under Category 5**

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Category 1 – Single Account Category

Single Accounts - 12 C.F.R. § 330.6

Deposit must be owned by a **“natural person”**

Common Misunderstanding:

- Sole Proprietorship Deposits:
  - Funds owned by a **Sole Proprietorship or DBA** are insured in this category (not in **Category 7 – Business Organizations**)
- Decedent Deposits:
  - Accounts established for a **deceased person** (i.e. Decedent’s Accounts) are insured in this category (not **Category 3 - Revocable Trusts**)

Category 1 – Single Account Coverage

A depositor is insured for up to $250,000 for all **Category 1 – Single Account** deposits

Common Misconceptions:

- If the depositor, a single owner, names beneficiaries, the deposit will be analyzed as a **Category 3 – Revocable Trust** deposit
- **Category 1 – Single Account** is the default category for depositors who do not meet the requirements of another category

Category 1 – Single Account – Jane Smith

Deposit Types	Balance
Savings	$ 125,000
CD 6 month maturity	100,000
CD 2 year maturity	50,000
MMDA	50,000
Total	**$ 325,000**
Insurance Coverage	**$ 250,000**
Uninsured Amount	**$ 75,000**

Category 2 – Joint Account Requirements

Joint Accounts - 12 C.F.R. § 330.9

Requirements:

- Each co-owner must be a natural person
  - Corporations, Partnerships, Associations, Trusts and Estates are not eligible for Joint Account Coverage
- Each co-owner must sign the signature card (CD exception)
- Each co-owner must have same withdrawal rights as the other co-owner(s)

Note: FDIC assumes ownership of a joint account is equal unless otherwise stated

Category 2 – Joint Account Coverage

If all the requirements are met, then the amount of deposit insurance coverage is up to $250,000 for each owner of all Category 2 – Joint Account deposits

Remember!

If a depositor establishes multiple joint accounts, the owner's shares in all joint accounts are added together and insured up to $250,000

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Category 2 – Joint Account Coverage

Common Misconceptions:

- Deposit insurance is **not** increased by:
  1) rearranging the names listed on multiple joint accounts
  2) substituting “and” for “or” in account titles for multiple accounts or
  3) using different Social Security numbers on multiple joint accounts
- If the depositors name beneficiaries, the deposit will be analyzed as a **Category 3 – Revocable Trust** deposit

Category 2 – Multiple Joint Accounts

Example:

Account	Account Title	Balance
# 1	Jane Smith and Andrew Smith	$ 400,000
# 2	Jane Smith and Harry Jones	$ 200,000
Total		**$ 600,000**

Category 2 - Multiple Joint Accounts - Example

	Jane's Interest	Andrew's Interest	Harry's Interest	Total
Account 1	$200,000	$200,000		$400,000
Account 2	$100,000		$100,000	$200,000
Total	$300,000	$200,000	$100,000	$600,000
Insured	$250,000	$200,000	$100,000	$550,000
Uninsured	$ 50,000			$ 50,000

Category 3 – Revocable Trust Accounts

Revocable Trust Accounts - 12 C.F.R. § 330.10

What is a revocable trust account?

- A deposit account that indicates an intention that the funds will belong to one or more named beneficiaries upon the last owner's death

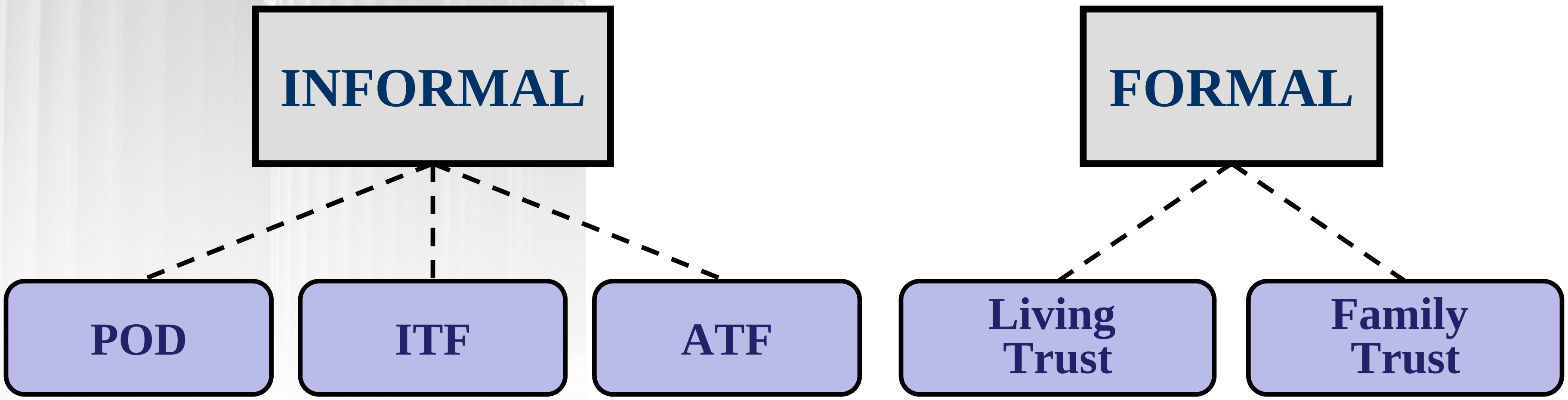
What does revocable mean?

- The owner retains the right to change beneficiaries and allocations or to terminate the trust

What are the types of revocable trusts?

- Informal revocable trusts
- Formal revocable trusts

Category 3 – Revocable Trust Account Types



Payable-on-Death ("POD") or other similar terms such as In-Trust-For ("ITF") or As-Trustee-For ("ATF") must be in the account title

Account must be titled in the name of the formal trust

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Category 3 – Revocable Trust Requirements

Updated on October 19, 2009!

Trust Relationship Must Exist in the Account Title

The disclosure requirements for revocable trust accounts are found in 12 C.F.R. § 330.10(b), which states:

> The required intention in paragraph (a) of this section that upon the owner's death the funds shall belong to one or more beneficiaries must be manifested in the “title” of the account using commonly accepted terms such as, but not limited to, “in trust for,” “as trustee for,” “payable-on-death to,” or any acronym therefor. **For purposes of this requirement, “title” includes the electronic deposit account records of the institution. (For example, the FDIC would recognize an account as a revocable trust account even if the title of the account signature card does not designate the account as a revocable trust account as long as the institution’s electronic deposit account records identify (through a code or otherwise) the account as a revocable trust account)**

Category 3 – Revocable Trust Requirements

Who is a beneficiary?

- The owner and beneficiary **no longer** must meet the kinship requirement that each beneficiary must be related to the owner from one of the following five groups: parent, sibling, spouse, child, or grandchild

Who or what can be a beneficiary?

- The beneficiary must be an eligible beneficiary as defined below:
  - A natural person (living)
  - A charity (must be valid under IRS rules)
  - A non-profit organization (must be valid under IRS rules)

Category 3 – Revocable Trust Requirements

- **Who or what is or not allowed as a beneficiary?**

  Pets, deceased persons or the naming of any object or entity that does not meet the eligibility requirements. Any beneficiary that is not legally entitled to receive funds upon the owner's death will be ignored

- **What about deposits opened "POD to the Trust?"**

  If a deposit account is titled, as an example, **"John Smith POD to the John Smith Revocable Trust,"** the FDIC will treat the deposit as an account in the name of the depositor's revocable trust (i.e., the "John Smith Revocable Trust"). The funds will no longer be insured as a reversion or default to the owner's **Category 1 – Single Accounts**

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Category 3 – Revocable Trust Coverage

Coverage depends on the number of beneficiaries named by an owner and the amount of the deposit

1. **The owner names five or fewer unique eligible beneficiaries and the total deposit(s) allocated to all beneficiaries combined is $1,250,000 or less, then the insurance coverage is:**

- Up to **$250,000 times the number of unique eligible beneficiaries** named by the owner. This applies to the combined interests for all beneficiaries the owner has named in all (both informal and formal) revocable trust deposits established in each bank
- **The result is the same as above even if the owner has allocated different or unequal percentages or amounts to multiple beneficiaries.** To calculate the deposit insurance coverage, multiply $250,000 times the number of owners times the number of unique eligible beneficiaries

Category 3 – Revocable Trust Coverage

Coverage depends on the number of beneficiaries named by an owner and the amount of the deposit

2. **The owner names six or more unique eligible beneficiaries and the deposit is greater than $1,250,000:**

   - If the owner is attempting to insure more than $1,250,000 with **six or more unique eligible beneficiaries where the allocation to each and every beneficiary is equal,** the deposit insurance coverage is **$250,000 times the number of unique eligible beneficiaries**
   - If the owner is attempting to insure more than $1,250,000 with **six or more unique eligible beneficiaries with <u>unequal</u> percentages or dollar amount allocations to the beneficiaries**, the deposit insurance coverage is the greater of $1,250,000 or the total of specific allocations to all named beneficiaries, up to $250,000 per beneficiary. Therefore, if the total deposit is greater than $1,250,000 and the allocation to a beneficiary exceeds $250,000, the excess above $250,000 will be uninsured

Category 3 – Revocable Trust Coverage

Seven questions that must be answered before you can determine FDIC insurance coverage for a revocable trust account are:

1. Who are the owners of the trust account?
2. Who are the primary unique beneficiaries upon the death of the owners?
3. Are the primary unique beneficiaries "eligible" ?
4. Are the primary unique beneficiaries identified in the bank's deposit account records (for informal trusts) or in the trust agreement (for formal trusts) living?
5. What is the dollar amount or percentage interest each owner has allocated to each primary unique beneficiary?
6. Does the owner(s) have any other revocable trust accounts in the same bank?
7. Are the revocable trust accounts properly titled?

Category 3 – Revocable Trust Calculation

1. Who are the owners of the trust account?

- In informal trust accounts, the depositor is the owner of the account. In formal revocable trusts, the owner is commonly referred to as a **Grantor, Trustor or Settlor**. **Trustee and successor trustee designations** are irrelevant in the determination of deposit insurance coverage

2. Who are the primary unique beneficiaries upon the death of the owners?

- At the time a bank fails, the beneficiary must be entitled to his or her interest in the revocable trust assets upon the grantor's death and that ownership interest does not depend upon the death of another trust beneficiary. Contingent beneficiaries do not count. Life estate beneficiary interests are allowed up to $250,000 in deposit insurance coverage

Category 3 – Revocable Trust Calculation

3. Are the primary unique beneficiaries "eligible"?

- Eligible beneficiaries are natural persons, charities or non-profit organizations recognized as such by the Internal Revenue Service. The FDIC **no longer** looks to see if a beneficiary is "qualifying" - that is a parent, sibling, spouse, child or grandchild of the grantor. If the named beneficiary cannot under state law receive funds when the owner dies, the beneficiary's interest is considered invalid

4. Are the primary unique beneficiaries identified in the bank's deposit account records (for informal trusts) or in the trust agreement (for formal trusts) living?

- The death of either an owner(s) or beneficiary(ies) can impact the calculation of deposit insurance coverage
- Please remember there is no six-month grace period for the death of a beneficiary for revocable trust deposits. If there is no substitute beneficiary named when a primary beneficiary dies, the amount of deposit insurance coverage may decrease for this deposit

Category 3 – Revocable Trust Calculation

5. **What is the dollar amount or percentage interest each owner has allocated to each primary beneficiary?**

- Assuming the owner is attempting to insure $1,250,000 or less with five or fewer unique eligible beneficiaries, the coverage is calculated as follows for each owner naming:

1 beneficiary = up to $ 250,000 insurance coverage

2 beneficiaries = up to $ 500,000 insurance coverage

3 beneficiaries = up to $ 750,000 insurance coverage

4 beneficiaries = up to $1,000,000 insurance coverage

5 beneficiaries = up to $1,250,000 insurance coverage

Note: If there are two owners, the deposit insurance coverage amount is calculated using:
(# of owners) times (# of beneficiaries) times $250,000

Category 3 – Revocable Trust Calculation

5. (Continued)

- Assuming the owner is attempting to insure more than $1,250,000 with six or more unique eligible beneficiaries with EQUAL interests, the coverage is calculated as follows for each owner naming:

  6 beneficiaries = up to $1,500,000 insurance coverage
  7 beneficiaries = up to $1,750,000 insurance coverage
  8 beneficiaries = up to $2,000,000 insurance coverage
  9 beneficiaries = up to $2,250,000 insurance coverage
  10+ = add up to $250,000 insurance coverage for each additional beneficiary

- Assuming the owner is attempting to insure more than $1,250,000 with six or more unique eligible beneficiaries with UNEQUAL beneficial interests, the FDIC will compute the deposit insurance coverage based on the greater of either the specific allocations provided for under the trust agreement or the minimum amount of at least $1,250,000

Category 3 – Revocable Trust Calculation

6. Does the owner(s) have any other revocable trust accounts in the same bank?

- In calculating deposit insurance coverage for revocable trusts, the FDIC combines the interests of all beneficiaries the owner has named in all formal and informal revocable trust accounts at the same bank

7. Are the revocable trust accounts properly titled?

- The account title at the bank must indicate that the account is held pursuant to a trust relationship. 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 language such as POD or ITF must be in the account title

Category 3 – Revocable Trust Coverage

Unequal Beneficiary Allocations – POD Account

Example 1: **Balance**

	Balance
Account #1: John POD Mary	**= $ 350,000**
Account #2: John POD Sara	**= 50,000**

Total	**= $ 400,000**

Are these accounts fully insured? YES!

When five or fewer unique eligible beneficiaries are named, the insurance coverage is calculated as the number of owners times the number of beneficiaries. In this example, with one owner and two beneficiaries, the coverage is $500,000:

(1 owner times 2 beneficiaries times $250,000 = $500,000)

Since the total of both accounts is $400,000, this amount is fully insured because the combined balance is less than $500,000

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Category 3 – Revocable Trust Coverage

Example 2:

		Balance
Account #1: John POD Mary	=	$ 350,000
Account #2: John POD Sara	=	175,000
Total	=	$ 525,000

Are these accounts fully insured? NO!

The combined amount of $500,000 is insured with $25,000 uninsured

The insurance coverage calculation is:
One owner times two beneficiaries times $250,000 = $500,000

What if the bank fails?
Can or will the FDIC "revert or default" the uninsured $25,000 back to **Category 1 – Single Accounts** if John has not used this category?

NO!

Category 3 – Revocable Trust Misconceptions

Example 3:

Facts: John POD Lisa

What is the maximum amount that can be insured for this deposit?

John (Owner) POD Lisa (Beneficiary) $250,000

Rule for revocable trusts with 5 or fewer beneficiaries:
Number of Owners x # of Eligible Beneficiaries x $250,000 = Deposit Insurance (DI) Coverage

Correct Method!

John (Owner)	x	Lisa (Beneficiary)	x	$250,000	=	$250,000
(1)	x	(1)	x	$250,000	=	$250,000

Common Misconception:
The **misconception** is that deposit insurance is determined by counting or adding the total number of individuals listed on a POD account. **This is incorrect!**

Incorrect Method!
Coverage is **NOT calculated** as owners plus beneficiaries times $250,000

John (Owner)	+	Lisa (Beneficiary)	x	$250,000	=	$500,000
(1)	+	(1)	x	$250,000	=	$500,000

IMPORTANT! Remember that for revocable trusts with 5 or fewer beneficiaries, deposit insurance coverage is the number of owners times the number of beneficiaries times $250,000

Category 3 – Revocable Trust Misconceptions

Example 4:

Facts: John POD Fido (John's dog - Invalid beneficiary)
What is the maximum insured amount for this deposit?

John (Owner) POD Fido (Invalid Beneficiary) $0

Rule for revocable trusts with 5 or fewer beneficiaries:

Multiply # of Owners x # of Eligible Beneficiaries x $250,000 = DI coverage

Incorrect Method!

John (Owner)	+	Fido (Invalid Beneficiary)	x	$250,000	=	$500,000
(1)	+	(1)	x	$250,000	=	$500,000

Common Misconception:
The misconception is that deposit insurance is determined by counting or adding the total number of individuals listed on a POD account. This is incorrect!

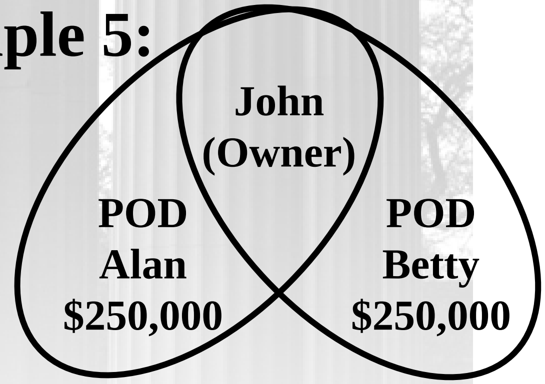
Correct Method!

John (Owner)	x	Fido (Invalid Beneficiary)	x	$250,000	=	$0
(1)	x	(0)	x	$250,000	=	$0

Since John has named an invalid beneficiary, this account would **not** be insurable under John's **Category 3 – Revocable Trust Accounts**. **However, John's deposit would revert to John's Category 1 – Single Accounts and would be insurable up to $250,000** (assuming he has no other **Category 1 – Single Account** deposits in this bank)

Category 3 – Revocable Trust Misconceptions

Example 5:



Facts: John POD Alan and Betty

What is the maximum insured amount for this deposit?

Rule for revocable trusts with 5 or fewer beneficiaries:
Number of Owners x # of Eligible Beneficiaries x $250,000 = DI Coverage

Correct Method!

John (Owner)	x	Alan (Beneficiary)	+	Betty (Beneficiary)	x	$250,000	=	$500,000
(1)	x		(2)		x	$250,000	=	$500,000

Incorrect Method!
Coverage is **NOT calculated** as owners plus beneficiaries times $250,000

John (Owner)	+	Alan (Beneficiary)	+	Betty (Beneficiary)	x	$250,000	=	$750,000
(1)	+	(1)	+	(1)	x	$250,000	=	$750,000

Common Misconception:
The **misconception** is that deposit insurance is determined by counting or adding the total number of individuals listed on a POD account for a total of $750,000 in DI coverage. **This is incorrect!**

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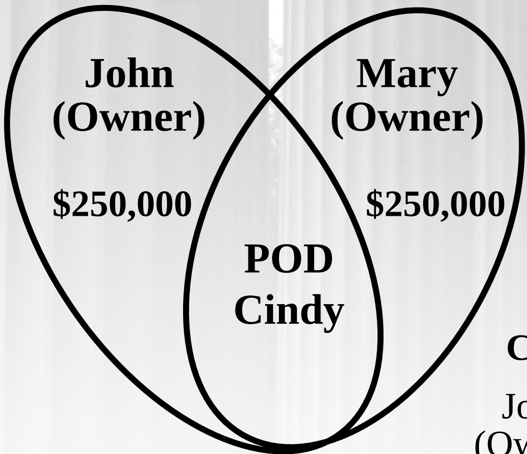
Category 3 – Revocable Trust Misconceptions

Example 6a:



Facts: John and Mary POD Cindy

What is the maximum insured amount for this deposit?

Rule for revocable trusts with 5 or fewer beneficiaries:
Number of Owners x # of Eligible Beneficiaries x $250,000 = DI Coverage

Correct Method!

John (Owner)	+	Mary (Owner)	x	Cindy (Beneficiary)	x	$250,000	=	$500,000
(2)			x	(1)	x	$250,000	=	$500,000

Incorrect Method!

John (Owner)	+	Mary (Owner)	+	Cindy (Beneficiary)	x	$250,000	=	$750,000
(1)	+	(1)	+	(1)	x	$250,000	=	$750,000

Common Misconception:
The **misconception** is that deposit insurance is determined by counting or adding the total number of individuals listed on a POD account which is three persons for a total of $750,000 in deposit insurance coverage. **This is incorrect!**

Category 3 – Revocable Trust Misconceptions

Example 6b:

John (Owner) POD Lisa $250,000	**John (Owner) POD Betty $250,000**	**John (Owner) POD Cindy $250,000**
Mary (Owner) POD Lisa $250,000	**Mary (Owner) POD Betty $250,000**	**Mary (Owner) POD Cindy $250,000**

Facts: John and Mary POD Lisa, Betty and Cindy

What is the maximum insured amount for this deposit?

Rule for revocable trusts with 5 or fewer beneficiaries:
Number of Owners x # of Eligible Beneficiaries x $250,000 = DI Coverage

Common Misconception:
The misconception is that deposit insurance is determined by counting or adding the total number of individuals listed on a POD account which is 5 persons for a total of $1,250,000 in deposit insurance coverage.
This is incorrect!

Correct Method!

John (Owner)	+	Mary (Owner)	x	Lisa (Beneficiary)	+	Betty (Beneficiary)	+	Cindy (Beneficiary)	x	$250,000	=	$1,500,000
(2)			x	(3)					x	$250,000	=	$1,500,000

Incorrect Method! Coverage is **NOT** calculated as owners plus beneficiaries times $250,000

John (Owner)	+	Mary (Owner)	+	Lisa (Beneficiary)	+	Betty (Beneficiary)	+	Cindy (Beneficiary)	x	$250,000	=	$1,250,000
(1)	+	(1)	+	(1)	+	(1)	+	(1)	x	$250,000	=	$1,250,000

Category 3 – Revocable Trust Calculation

Example 7:

Facts: John is the owner of a living trust. What is the maximum this trust can be insured for with six beneficiaries named each receiving an equal interest?

Beneficiary 1 = 1/6 to Sally
Beneficiary 2 = 1/6 to James
Beneficiary 3 = 1/6 to Amy
Beneficiary 4 = 1/6 to ABC Charity (IRS qualified)
Beneficiary 5 = 1/6 to John's College (IRS qualified)
Beneficiary 6 = 1/6 to XYZ Non-profit (IRS qualified)

What is the maximum coverage?

Coverage is calculated as follows:

1 Owner X $250,000 X 6 Eligible Beneficiaries = $1.5 million

FDIC

Category 3 – Revocable Trust Calculation

Example 8:

Facts: John is the owner of a living trust that provides the following when he dies:

Beneficiary 1 = $	**350,000**	**to Sally**
Beneficiary 2 = $	**50,000**	**to James**
Beneficiary 3 = $	**200,000**	**to Amy**
Beneficiary 4 = $	**300,000**	**to ABC qualifying charity**
Beneficiary 5 = $	**300,000**	**to XYZ qualifying non-profit**
Total = $	**1,200,000**	

Can John open this deposit at your bank and be fully insured for the entire amount of $1,200,000?

YES !

Since there is one owner with five or fewer unique eligible beneficiaries, we can calculate the coverage as follows:

One Owner (1) Times five Beneficiaries (5) Times $250,000 = Total Coverage up to $1,250,000

Because the total deposit of $1,200,000 is less than $1,250,000 the deposit is fully insured

Category 3 – Revocable Trust Calculation

Coverage Calculations for Six or More Beneficiaries with Unequal Allocations

If the owner is attempting to insure more than $1,250,000 and has named **six or more unique eligible** beneficiaries under one or more revocable trust deposits, but has **unequal percentages or dollar amount allocations to the beneficiaries, then no specific allocation to any beneficiary can exceed $250,000**

If any beneficiary's allocation does exceed $250,000, then the default total insurable amount (with no uninsured funds) is a maximum deposit of $1,250,000

Category 3 – Revocable Trust Calculation

Coverage Calculation Steps - Six or More Beneficiaries with Unequal Allocations

Step 1 - Under the trust agreement, determine what is the largest percentage allocated to any one beneficiary. If dollar allocations are used instead of percentages, then simply take the largest dollar allocation and divide that by the total amount for all allocations to convert to the largest percentage allocation

Step 2 - Take the SMDIA ($250,000) and **divide** this amount by the percentage found in Step 1

Step 3 - Look at the result. If the amount is less than or equal to $1,250,000 then the maximum insurable amount is exactly $1,250,000 using this trust agreement. If the result is greater than $1,250,000, then this amount represents the maximum amount that can be deposited using this trust agreement with no uninsured funds

Category 3 – Revocable Trust Calculation

Breakeven Calculation

If one or more beneficiaries have an allocated interest **at or ABOVE 20%,** then we know that by dividing the SMDIA ($250,000) by the highest percentage allocation attributable to a beneficiary under the trust agreement, the result will always be $1,250,000 or less and therefore we can simply use the default amount of $1,250,000 as the maximum insurable amount with no uninsured funds

If all the beneficiaries have an allocated interest **at or BELOW 20%,** then we know that by dividing the SMDIA ($250,000) by the highest percentage allocation attributable to a beneficiary under the trust agreement, the result of the formula will be an amount of deposit insurance coverage greater than $1,250,000

Category 3 – Revocable Trust Calculation

Table below presents a sample of the deposit insurance coverage amount available using different percentages

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

*Defaults to $1,250,000

Category 3 – Revocable Trust Calculation

Example 9:

Facts: John's trust provides the following allocations when he dies:

Beneficiary 1	**= $**	**500,000**	**to Sally**
Beneficiary 2	**= $**	**150,000**	**to James**
Beneficiary 3	**= $**	**250,000**	**to Amy**
Beneficiary 4	**= $**	**225,000**	**to ABC qualifying charity**
Beneficiary 5	**= $**	**175,000**	**to XYZ qualifying non-profit**
Beneficiary 6	**= $**	**200,000**	**to JKL qualifying non-profit**
Total	**= $**	**1,500,000**	

Can John open this deposit at your bank and be fully insured for the entire amount of $1,500,000?

No!

If $1,500,000 is deposited, then $1,250,000 is insured and $250,000 is uninsured because Sally's allocation of $500,000 creates $250,000 of uninsured funds

Category 3 – Revocable Trust Calculation

Example 9 (continued):

What is the maximum amount that can be deposited using this trust with 100% of the deposit fully insured?

Step 1: Take the largest amount to be received by a beneficiary and convert this to a percentage

$500,000/$1,500,000 = 33.33% (rounded)

Step 2: Take the SMDIA of $250,000 and divide this by our highest percentage allocated from Step 1

$250,000 is then divided by 33.33% = $750,000

Step 3: The amount of deposit insurance coverage is the greater of either the result from Step 2 or $1,250,000. Since the calculation of $750,000 is **less** than $1,250,000, then $1,250,000 represents the maximum amount that can be deposited with no uninsured funds

FDIC

Category 3 – Revocable Trust Calculation

Example 10:

Facts: John's trust provides the following allocations when he dies:

Beneficiary 1	**= $**	**400,000 to Sally**
Beneficiary 2	**= $**	**150,000 to James**
Beneficiary 3	**= $**	**250,000 to Amy**
Beneficiary 4	**= $**	**225,000 to ABC qualifying charity**
Beneficiary 5	**= $**	**275,000 to XYZ qualifying non-profit**
Beneficiary 6	**= $**	**200,000 to JKL qualifying non-profit**
Beneficiary 7	**= $**	**150,000 to Joe**
Beneficiary 8	**= $**	**150,000 to Chris**
Beneficiary 9	**= $**	**175,000 to Kate**
Beneficiary 10	**= $**	**125,000 to Kathy**
Total	**= $**	**2,100,000**

Can John open this deposit at your bank and be fully insured for $2,100,000?

NO!

FDIC

Category 3 – Revocable Trust Calculation

Example 10 (continued):

If $2,100,000 is deposited, then $1,925,000 is insured and $175,000 is uninsured ($150,000 to Sally and $25,000 to XYZ)

Beneficiaries	Trust Allocation	Insured Amount	Uninsured Amount
Beneficiary 1	$ 400,000	$ 250,000	$ 150,000
Beneficiary 2	150,000	150,000	0
Beneficiary 3	250,000	250,000	0
Beneficiary 4	225,000	225,000	0
Beneficiary 5	275,000	250,000	25,000
Beneficiary 6	200,000	200,000	0
Beneficiary 7	150,000	150,000	0
Beneficiary 8	150,000	150,000	0
Beneficiary 9	175,000	175,000	0
Beneficiary 10	125,000	125,000	0
Total	**$ 2,100,000**	**$ 1,925,000**	**$ 175,000**

Category 3 – Revocable Trust Calculation

Example 10 (continued):

Is $1,925,000 the maximum insurable amount with 100% of the funds fully insured?

NO!

Common Misconception!

The maximum insurable amount is **not** calculated by simply subtracting the excess amount above $250,000 from Beneficiary 1 and Beneficiary 5, as this would change the Grantor's intended percentage allocation for each beneficiary

Category 3 – Revocable Trust Calculation

Example 10 (continued):

Grantor's intended allocation is determined by dividing the specific allocation to each beneficiary into the total allocation under the trust:

Beneficiaries	Specific Allocation	Total Allocation	Percentage Allocation
Beneficiary 1	$ 400,000	$ 2,100,000	19.05 %
Beneficiary 2	150,000	2,100,000	7.14 %
Beneficiary 3	250,000	2,100,000	11.91 %
Beneficiary 4	225,000	2,100,000	10.72 %
Beneficiary 5	275,000	2,100,000	13.10 %
Beneficiary 6	200,000	2,100,000	9.52 %
Beneficiary 7	150,000	2,100,000	7.14 %
Beneficiary 8	150,000	2,100,000	7.14 %
Beneficiary 9	175,000	2,100,000	8.33 %
Beneficiary 10	125,000	2,100,000	5.95 %

Category 3 – Revocable Trust Calculation

Example 10 (continued):

What is the maximum amount that can be deposited under this trust with 100% of the funds fully insured?

Category 3 – Revocable Trust Calculation

Example 10 (continued):

Step 1: Take the largest amount to be received by a beneficiary and convert this to a percentage. $400,000/$2,100,000 = 19.05% (rounded)

Beneficiaries	Specific Allocation	Total Allocation	Percentage Allocation (rounded)
Beneficiary 1	**$ 400,000**	**$ 2,100,000**	**19.05 %**
Beneficiary 2	150,000	2,100,000	7.14 %
Beneficiary 3	250,000	2,100,000	11.91 %
Beneficiary 4	225,000	2,100,000	10.72 %
Beneficiary 5	275,000	2,100,000	13.10 %
Beneficiary 6	200,000	2,100,000	9.52 %
Beneficiary 7	150,000	2,100,000	7.14 %
Beneficiary 8	150,000	2,100,000	7.14 %
Beneficiary 9	175,000	2,100,000	8.33 %
Beneficiary 10	125,000	2,100,000	5.95 %

Category 3 – Revocable Trust Calculation

Example 10 (continued):

Step 2: Take the SMDIA of $250,000 and divide this by our highest percentage allocated from Step 1

$250,000 is then divided by 19.05% = $1,312,336

This amount, $1,312,336, represents the total amount that would be insured in keeping with the grantor's intended allocation

Step 3: The amount of deposit insurance coverage is the greater of either the result from Step 2 or $1,250,000

Since the calculation of $1,312,336 is **<u>greater</u>** than $1,250,000, then $1,312,336 represents the maximum amount that can be deposited with no uninsured funds

Category 3 – Revocable Trust Calculation

Example 10 (continued): Proof that the deposit of $1,312,336 is the total insured amount for all beneficiaries combined

Trust Beneficiaries	Percentage Interest Allocation (rounded)	Dollar Allocation
Beneficiary 1	19.05 %	$ 250,000
Beneficiary 2	7.14 %	93,701
Beneficiary 3	11.91 %	156,299
Beneficiary 4	10.72 %	140,682
Beneficiary 5	13.10 %	171,916
Beneficiary 6	9.52 %	124,934
Beneficiary 7	7.14 %	93,701
Beneficiary 8	7.14 %	93,701
Beneficiary 9	8.33 %	109,318
Beneficiary 10	5.95 %	78,084
Total	**100 %**	**$ 1,312,336**

Category 3 – Revocable Trust Calculation

Depositor with a POD account naming 3 eligible beneficiaries

+

Depositor with a living trust account identifying the same 3 beneficiaries

Account # 1
David Smith
POD to
Andy, Betty and Charlie
Balance is $750,000

Account # 2
David Smith Revocable Trust
which names Andy, Betty and
Charlie as beneficiaries
Balance is $750,000

A depositor cannot establish both of these accounts and receive $1,500,000 of deposit insurance!

The total coverage for both accounts is $750,000

Category 3 – Revocable Trust – HSA

- Definition: A **health savings account (HSA)** is a tax-exempt trust or custodial account set up with a qualified HSA trustee, such as an FDIC-insured bank, to pay or reimburse certain medical expenses
- HSAs are insured based on who owns the funds and whether beneficiaries are named in the bank account records
- When beneficiaries are named, the FDIC will insure the owner of an HSA deposit under **Category 3 – Revocable Trusts** in the same manner as a payable on death (POD) account
- If a depositor opens an HSA with no beneficiaries named, then the FDIC would insure these funds under the depositor's **Category 1 – Single Ownership Accounts**

IMPORTANT! The FDIC does not require "POD" or "ITF" be included in the account title for an HSA to be eligible for **Category 3 – Revocable Trust** coverage

Category 4 – Irrevocable Trust Requirements

Irrevocable Trust Accounts - 12 C.F.R. § 330.13

For the purpose of FDIC deposit insurance, irrevocable means that the grantor (person who created the trust) does not possess the power to terminate or revoke the trust

- **An irrevocable trust may be created through:**
  - Death of the grantor of a revocable living trust
  - Execution or creation of an irrevocable trust agreement
  - Statute or court order
- **An irrevocable trust deposit must be linked to a written trust agreement**
  - There is no "POD" or "ITF" option

Category 4 – Irrevocable Trust Coverage

Insurance coverage for irrevocable trust deposits is usually no more than $250,000

No per-beneficiary coverage if:

- Owner retains interest in the use of the trust assets (if so, funds are insured to the owner as **Category 1 – Single Account** deposits)
- Interests of beneficiaries are contingent or not ascertainable (if so, all such interests are added together and insured up to $250,000)

Contingency examples include:

- Beneficiaries do not receive funds unless certain conditions are met
- Trustee may invade principal of the trust on behalf of a beneficiary
- Beneficiaries or trustee may exercise discretion in allocating funds

Category 4 – Irrevocable Trust Calculation

Effective October 19, 2009

When a revocable trust deposit converts to an irrevocable trust because of the death of the owner(s), the FDIC may continue to apply the original revocable trust coverage provided the deposit was established at the bank while the trust was revocable

Example: The "John Smith Revocable Trust" names his wife with a life estate interest and his two children as remainder beneficiaries. This trust deposit is opened for $750,000 in a two year CD and is fully insured. John died a year ago and the trust became irrevocable. The trust allows for his wife to use 100% of the assets during her life time if needed

What is the maximum deposit insurance coverage allowed?

Coverage will remain at $750,000 instead of dropping to $250,000 because the deposit in the bank was opened while the trust was revocable

Category 5 – Certain Retirement Accounts

Certain Retirement Accounts - 12 C.F.R. § 330.14(b)(2)

- Deposits typically owned by only one participant in Certain Retirement Accounts
- Titled in the name of the owner's retirement account
- Coverage: $250,000 for all deposits in **Category 5 – Certain Retirement Accounts**

Category 5 – Certain Retirement Accounts

Types of accounts in this category are:

Traditional and Roth IRAs	Section 457 deferred compensation plans (whether or not self-directed)
Savings Incentive Match Plan for Employees (SIMPLE) IRAs	Self-directed defined contribution plans
Simplified Employee Pension (SEP) IRAs	Self-directed Keogh plans

A self-directed retirement account is an account for which the owner, not a plan administrator, has the right to direct how the funds are invested, including the ability to direct that the funds be deposited at a specific bank

Common Misunderstanding! For deposits under this category like IRAs, the deposit insurance coverage cannot and does not increase for any beneficiaries who may be named in the bank records

Note: All "defined benefit plans" are excluded from this category but included under Category 6 – Employee Benefit Plan Accounts

FDIC

Category 6 – Employee Benefit Plan Accounts

Employee Benefit Plans - 12 C.F.R. § 330.14

- Employee benefit plan accounts are deposits held by any plan that satisfies the definition of an employee benefit plan in section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA), except for those plans that qualify under **Category 5 – Certain Retirement Accounts**
- Account title must indicate the existence of an employee benefit plan
- Plan administrator must be prepared to produce copies of the plan documents
- Coverage is up to $250,000 **for each participant's non-contingent interest**

FDIC

Category 6 – Employee Benefit Plan Accounts

Types of Employee Benefit Plans:

- Defined contribution plans, including profit-sharing plans and 401(k) plans that do not qualify as "self-directed" plans
- **All** defined benefit plans are insured under this category

Note: Typically there are multiple participants in an employee benefit plan account. It is therefore possible for pass-through insurance to apply and for the total deposit insurance coverage for the plan to exceed $250,000

FDIC

Category 6 – Employee Benefit Plan Accounts

Account Title: "The Pet Vet Clinic Defined Benefit Plan"

Plan Participants	Share of Plan*
Dr. Todd	40%
Dr. Jones	30%
Tech Barnes	10%
Tech Evans	10%
Tech Cassidy	10%
Plan Totals	**100%**

- Assume the actuary for the plan has determined these percentages represent the vested non-contingent share for each participant. The value of an employee's non-contingent interest in a defined benefit plan shall be deemed to be the present value of the employee's interest in the plan, evaluated in accordance with the method of calculation ordinarily used under such plan, as of the date of default of the bank

Category 6 – Employee Benefit Plan Accounts

What is the maximum amount that can be deposited for this plan with 100% of the deposit fully insured?

Maximum coverage per participant	**$ 250,000**	
Divided by	**÷**	
Largest participant interest	**.40**	**(Dr. Todd)**
Maximum deposit insurance amount eligible for full insurance coverage	**=**	**$ 625,000**

Category 6 – Employee Benefit Plan Accounts

Account Title | **Account Balance**

The Pet Vet Clinic | **$ 625,000**

Defined Benefit Plan

Plan Participants	Share of Plan	Share of Deposit	Amount Insured	Amount Uninsured
Dr. Todd	40%	$ 250,000	$ 250,000	$ 0
Dr. Jones	30%	187,500	187,500	0
Tech Barnes	10%	62,500	62,500	0
Tech Cassidy	10%	62,500	62,500	0
Tech Evans	10%	62,500	62,500	0
Totals	**100%**	**$ 625,000**	**$ 625,000**	**$ 0**

Category 7 – Business/Organization Accounts

Business/Organization Accounts - 12 C.F.R. § 330.11

- Based on state law, the business/organization must be a legally created entity such as a/an:
  - Corporation (includes Subchapter S, LLCs, and PCs)
  - Partnership
  - Unincorporated Association
- The business/organization must be engaged in an independent activity supported by:
  - Separate tax identification numbers
  - Separate charters or bylaws

Category 7 – Business/Organization Accounts

What is the maximum insurance coverage?

- Coverage is up to $250,000 per legal entity
  - The existence of multiple signers does not increase coverage
  - A separate business purpose for funds owned by the same legal entity does not increase coverage

Category 8 – Government Accounts

Government Accounts - 12 C.F.R. § 330.15

What is a Government Account?

- Deposits placed by an **Official Custodian** of a government entity, including federal, state, county, municipality, or political subdivision

Who is an Official Custodian?

- An official custodian is an appointed or elected official who has control/decision-making authority over funds in the account owned by the public unit
- Control of public funds includes possession, as well as the authority to establish accounts for such funds in banks and to make deposits, withdrawals, and disbursements of such funds

Category 8 – Government Accounts

By statute, each of these Government Entities are eligible for deposit insurance coverage:

- United States
- States
- Counties
- Municipalities
- District of Columbia
- Puerto Rico
- Other territories
- Indian tribes
- School districts
- Power districts
- Irrigation districts
- Bridge or port authorities
- Other "political subdivisions"

FDIC

Category 8 – Government Accounts

What is the maximum insurance coverage?

- If the public unit is located in the same state as the bank:
  - $250,000 for all time and savings deposits
  - $250,000 for all interest-bearing demand deposits
  - Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, all noninterest-bearing transaction accounts have unlimited coverage from December 31, 2010 through December 31, 2012
- If the deposit is located in a bank in a different state than the public unit:
  - $250,000 for the combined total of all time, savings and interest-bearing demand deposits
  - Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, all noninterest-bearing transaction accounts have unlimited coverage from December 31, 2010 through December 31, 2012

Category 8 – Government Accounts

FDIC Fact Sheet

Deposit Insurance for Accounts Held by Government Depositors

www.fdic.gov/deposit/deposits/FactSheet.html

Category 9 – Mortgage Servicing Deposits

What is the deposit insurance coverage for commingled mortgage servicing deposits, including P&I payments?

- **Prior rule –** The payments of P&I held in a commingled mortgage servicing escrow deposit were insured up to the SMDIA ($250,000) as to **each mortgagee** under the account. The mortgagee's interest in all deposits was added together in the bank

- **Current rule –** Commingled P&I payment accounts established by mortgagees or investors are insured with coverage provided up to the SMDIA of $250,000 **per mortgagor.** The calculation of coverage for each P&I account is separate if the mortgagee or investor has established multiple P&I accounts in the same bank

Category 9 – Mortgage Servicing Deposits

Example:

A mortgage servicer collects from one thousand different borrowers their monthly mortgage payment of $2,000 (P&I) and places the funds into a mortgage servicing escrow account. The aggregate of all payments - $2,000,000 - is fully insured because each mortgagor's payment of $2,000 (P&I) is insured separately for up to $250,000

Note: The payment of T&I is unaffected

As a reminder, the new rules do not change the calculation of deposit insurance for deposits holding the commingled payments of taxes and insurance or T&I premiums. T&I payments are still insured on a pass-through basis as the single ownership funds of each respective mortgagor. Any T&I funds on deposit in a bank would be added to any other single ownership funds owned by a mortgagor

Category 10 – Noninterest-bearing Deposits

Important!

The FDIC's Transaction Account Guarantee Program (TAGP) ended on December 31, 2010

- Under the "Dodd-Frank Wall Street Reform and Consumer Protection Act" depositors with noninterest-bearing transaction accounts have unlimited deposit insurance coverage for two years, from December 31, 2010 through December 31, 2012, at all FDIC-insured banks

Category 10 – Noninterest-bearing Deposits

- Coverage as a result of the Dodd Frank Wall Street Reform and Consumer Protection Act:
  - From December 31, 2010 through December 31, 2012, all noninterest-bearing transaction accounts are fully insured, regardless of the balance of the account or the ownership capacity of the funds
  - This unlimited coverage is separate from and in addition to the insurance coverage provided for depositor's other accounts held at an FDIC-insured bank
  - Coverage is available to all depositors, including consumers, businesses and government entities

Category 10 – Noninterest-bearing Deposits

- A noninterest-bearing transaction account is a deposit account where:
  - Interest is neither accrued nor paid;
  - Depositors are permitted to make an unlimited number of transfers or withdrawals and;
  - The bank does not reserve the right to require advance notice before an intended withdrawal
- Noninterest-bearing transaction accounts include:
  - All deposits placed in an Interest on Lawyers Trust Accounts (IOLTA) or its equivalent

Note: Money Market Deposit Accounts (MMDAs) and Negotiable Order of Withdrawal (NOW) accounts are **not** eligible for this temporary unlimited insurance coverage, regardless of the interest rate, even if no interest is paid.

Ownership Categories

Owners = Individuals

CATEGORY 1 SINGLE ACCOUNTS	CATEGORY 2 JOINT ACCOUNTS	CATEGORY 3 REVOCABLE TRUST ACCOUNTS
CATEGORY 4 IRREVOCABLE TRUST ACCOUNTS	CATEGORY 5 CERTAIN RETIREMENT ACCOUNTS	CATEGORY 6 EMPLOYEE BENEFIT PLAN ACCOUNTS

Owner = Business/Organizations

CATEGORY 7
CORPORATION
PARTNERSHIP
UNINCORPORATED
ASSOCIATION ACCOUNTS

Owners = Government Entities or Political Subdivisions

CATEGORY 8
GOVERNMENT
ACCOUNTS

CATEGORY 9
PRINCIPAL & INTEREST
FUNDS IN
MORTGAGE SERVICING
ACCOUNTS

CATEGORY 10
NONINTEREST-BEARING
TRANSACTION ACCOUNTS

Example: Husband and Wife Maximizing Coverage

	Category 1 Single Accounts	Category 2 Joint Accounts	Category 3 Revocable Trust Accounts*	Category 5 Certain Retirement Accounts	Total Coverage
Husband (Individually)	$250,000 (#1)			$250,000 (#5)	$ 500,000
Wife (Individually)	$250,000 (#2)			$250,000 (#6)	$ 500,000
Together		$500,000 (#3)	$1,500,000 (#4)*		$ 2,000,000
Total	**$500,000**	**$500,000**	**$1,500,000**	**$500,000**	**$ 3,000,000**

*** The Category 3 – Revocable Trust deposit accounts assume the husband and wife have opened an account titled "John and Mary Smith POD Alice, Betty and Cathy"**

Remember: Two owners times three beneficiaries times $250,000 = $1,500,000

Note: This example is solely to show coverage under unique deposit insurance categories and is not intended to provide estate planning advice

FDIC

PART 5

FIDUCIARY and AGENCY ACCOUNTS

Fiduciary and Agency Accounts

Recognition of deposit ownership and fiduciary relationships including accounts held by an agent, nominee, guardian, custodian or conservator are described under 12 C.F.R. § 330.5 and 12 C.F.R. § 330.7

Important!

Fiduciary or agency accounts **are not** an ownership category!

These are deposit accounts established and maintained by third parties on behalf of the actual owner (referred to as the principal)

What makes these deposits different?

- An account that meets the definition of a fiduciary or agency account is entitled to "pass-through" deposit insurance coverage from the FDIC through the third party who establishes the account to the actual owner or owners of the funds. The deposit account can be established for the benefit of a single owner or a commingled account may be established for the benefit of multiple owners

Fiduciary and Agency Accounts

Examples of Third Parties Who Establish Fiduciary Accounts
Agent
Nominee
Guardian
Conservator
Executor
Broker

Examples of Fiduciary or Agency Accounts
Escrow
Brokered CDs
Uniform Transfer to Minors Act (UTMA)
Attorney Trust (IOLTA)
Agency
Power of Attorney

Fiduciary and Agency Accounts

What is "pass-through" deposit insurance coverage?

- When funds are deposited by a fiduciary or custodian on behalf of one or more actual owners of the funds, the FDIC will insure the funds as if the actual owners had established the deposit in the bank

What is the amount of "pass-through" deposit insurance coverage?

- Assuming the deposit meets the requirements for pass-through insurance coverage, then the amount of FDIC insurance coverage will be based on the ownership capacity (i.e., under the applicable ownership category) in which each principal holds the funds

Fiduciary and Agency Accounts

The requirements for pass-through coverage include:

- Funds must be owned by the principal not the third party who set up the account (i.e., the fiduciary or custodian who is placing the funds). To confirm the actual ownership of the deposit funds, the FDIC may review:
  1. The agreement between the third party establishing the account and the principal
  2. The applicable state law
- Bank's account records must indicate the agency nature of the account (e.g., XYZ Company as Custodian, XYZ FBO, Jane Doe UTMA John Doe, Jr.,)
- Bank's records or accountholder's records must indicate both the identities of the principals as well as the ownership interest in the deposit
- Deposit terms (i.e., the interest rate and maturity date) for accounts opened at the bank must match the terms the third party agent promised the customer
- If the terms don't match, the third party agent might be deemed to be the legal owner of the funds by the FDIC. An agent may retain a portion of the interest (as the agent's fee) without precluding pass-through coverage

Fiduciary and Agency Accounts

Aggregation of Deposits

- For the purpose of calculating FDIC deposit insurance coverage, any funds deposited by a third party on behalf of a principal will be added to any other deposits the principal may have in the same ownership category at the same bank

Fiduciary and Agency Accounts

Examples of a Bank's Involvement in Agency Accounts

A bank may accept or receive third party deposits in a number of ways including:

1. As a direct depository for agency funds (most common situation)
2. As an agent/broker placing funds with other banks as part of a third-party program
3. As an agent/broker placing customers' funds with other banks as part of its own program

For more information, see Guidance on Deposit Placement and Collection Activities (FIL-29-2010), dated June 7, 2010

Fiduciary and Agency Accounts

Example:

Facts: Assume the following four owners independently ask their broker "ABC Brokerage" to invest funds in bank deposits on their behalf - John Smith - $245,000, Mary Jones - $100,000, Sally and David - $495,000, and Betty Wilson - $160,000. The firm opens a commingled deposit in "First Great Service Bank" titled, "ABC Brokerage FBO" for a total of $1,000,000. Note that Sally and David independently are also depositors of First Great Service Bank and maintain an interest-bearing MMDA account with a balance currently at $15,000

Are all of these funds fully insured in First Great Service Bank?

Fiduciary and Agency Accounts

Example (continued) **:**

Are all of these funds fully insured in First Great Service Bank?

	ABC Brokerage	Customer Deposit	Total in Bank	Insured Amount	Uninsured Amount
John Smith	$ 245,000		$ 245,000	$ 245,000	$ 0
Mary Jones	100,000		100,000	100,000	0
Betty Wilson	160,000		160,000	160,000	0
Sally & David	$ 495,000	$ 15,000	$ 510,000	$ 500,000	10,000
Total	**$1,000,000**	**$ 15,000**	**$1,015,000**	**$1,005,000**	**$10,000**

Important!

With fiduciary or agency accounts, it is important to remember that all of a depositor's funds in the same ownership category are added together in calculating deposit insurance coverage regardless of the source of the funds

Sally and David have $510,000 in Category 2 – Joint Account deposits, of which only $500,000 is insured resulting in $10,000 of uninsured funds

PART 6

ISSUES WHEN AN FDIC-INSURED BANK MERGES OR FAILS

Issues When A Bank Merges or Fails

Coverage When Banks Merge

Basic rule - There is separate deposit insurance coverage (i.e., for deposits at each bank) for up to six months (starting with the effective date of the merger) if a depositor had funds in two banks that merged

- **Special exception for time deposits –** For time deposits (i.e., CDs) issued by the assumed bank, separate deposit insurance coverage will continue for the greater of either six months or the first maturity date of the time deposit

Issues When A Bank Merges or Fails

Coverage When A Bank Fails

FDIC pays depositors "as soon as possible"

- FDIC's goal is to make deposit insurance payments within two business days of the failure of the bank
- Depositors with brokered deposits will take longer to recover their insured funds
- FDIC pays 100 cents or 100% on the dollar for **all insured deposits**
- Depositors with uninsured deposits may recover a portion of their uninsured funds

Issues When A Bank Merges or Fails

Loans Offset Against Deposits

In the case of a non-delinquent loan, the depositor may elect to "set off" the loan against his/her deposits in order to receive full value for any uninsured deposits provided the following exists:

1) Mutuality – the exact same owner of both the deposit and loan at the bank
2) Not a "special purpose" deposit (e.g., funds held by the bank trust department for safekeeping)
3) The funds are not property of a third party
4) The offset is permitted by state law

FDIC

Issues When A Bank Merges or Fails

Loans Offset Against Deposits Example:

John Smith has an outstanding loan in the amount of $400,000 in his name alone at XYZ Bank. In addition he has two deposits at XYZ Bank – Account #1 is a Single Ownership Account in his name alone for $300,000 and Account #2 is a Joint Account with his wife in the amount of $525,000. XYZ Bank fails and the FDIC is appointed the Receiver. The FDIC determines Account #1 has $50,000 of uninsured funds and Account #2 has $25,000 of uninsured funds

Can John offset his uninsured funds in both accounts against his loan?

Issues When A Bank Merges or Fails

Loans Offset Against Deposits Example (continued):

Answer: Yes, in part

John can offset his loan against Account #1 for $50,000 but he cannot offset the uninsured funds in Account #2. The common law right of offset allows for the $50,000 to be offset against the $400,000 loan since there is mutuality (i.e., the exact same party for both the deposit and loan). Account #1 will be reduced to $250,000 and the outstanding loan balance is now $350,000. The joint account deposit with his wife does not meet the test for mutuality because there are two owners of the deposit and only one, John, as the debtor on the loan. Account #2 will therefore be uninsured for $25,000

PART 7

DEPOSIT INSURANCE COVERAGE RESOURCES

FDIC Resources

- **FDIC Website**
  www.fdic.gov
- **FDIC's Electronic Deposit Insurance Estimator**
  www.fdic.gov/edie
- **FDIC's Deposit Insurance Coverage Website**
  www.fdic.gov/deposit/deposits
  - **Deposit Insurance Coverage Guides**
    - **Deposit Insurance Summary**
    - **Your Insured Deposits**

FDIC Resources

- **Call the FDIC toll-free 1-877-ASK-FDIC (1-877-275-3342)**

Hearing impaired: 1-800-925-4618

Thank You for Participating in this Training