

FDIC Comprehensive Seminar On Deposit Insurance Coverage For Bankers

January 2012

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Outline

Part 1 – General Principles

Part 2 – Ownership Categories

Part 3 – Ownership Category Requirements

Part 4 – Fiduciary and Agency Accounts

Part 5 – Bank Mergers and Failures

Part 6 – Deposit Insurance Coverage Resources

Seminar on Deposit Insurance Coverage

PART 1

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

Checking Accounts

NOW Accounts

Savings Accounts

Money Market Deposit Accounts (“MMDAs”)

Certificates of Deposit

FDIC Does Not Insure Non-deposit Products

Stocks, Bonds, Municipal Bonds and Other Securities

Mutual Funds (money market mutual funds and stock, bond, or other security mutual funds)

Annuities

Insurance Products (automobile & life insurance)

Safe Deposit Box Contents

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

- In the event of a bank failure, the 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 not separately insured even if the branches are in different states

General Principles

Death of an Account Owner

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

- If an account owner dies, for the purpose of calculating deposit insurance coverage, the FDIC provides a six-month grace period during which the account will be insured as if the account owner had not died
- After the six-month grace period, the funds will be insured according to the ownership category in which the deposits are held

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PART 2

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 a federal statute or by an FDIC 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**

Owners = 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**

**- TEMPORARY -
CATEGORY 10
NONINTEREST-BEARING
TRANSACTION ACCOUNTS**

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PART 3

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	
<input type="checkbox"/> Personal Account <input type="checkbox"/> Non-Personal Account <input type="checkbox"/> Individual / Single <input type="checkbox"/> Estate <input type="checkbox"/> Individual Unincorporated (e.g. DBA) <input type="checkbox"/> Joint With Survivorship <input type="checkbox"/> Joint No Survivorship <input type="checkbox"/> POD / ITF / Totten <input type="checkbox"/> Revocable Trust <input type="checkbox"/> Irrevocable Trust <input type="checkbox"/> Corporation / Partnership / LLC <input type="checkbox"/> Non-Profit <input type="checkbox"/> Government <input type="checkbox"/> 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	
<input type="checkbox"/> Traditional IRA	<input type="checkbox"/> Inherited IRA
<input type="checkbox"/> Roth IRA	<input type="checkbox"/> Inherited Roth IRA
<input type="checkbox"/> SIMPLE IRA	<input type="checkbox"/> Rollover IRA
<input type="checkbox"/> SEP IRA	<input type="checkbox"/> 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**

(Cat. 2) **Joint Accounts**

(Cat. 3) **Revocable Trust Accounts**

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

(Cat. 7) **Corporation, Partnership, Unincorporated Association Accounts**

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

NOT AN OWNERSHIP CATEGORY - Insurance coverage “passes through” the fiduciary to the actual owner, based on how the funds are held

(Cat. 5) **Certain Retirement Accounts***

- | | |
|--|---|
| <input type="checkbox"/> Traditional IRA | <input type="checkbox"/> Inherited IRA |
| <input type="checkbox"/> Roth IRA | <input type="checkbox"/> Inherited Roth IRA |
| <input type="checkbox"/> SIMPLE IRA | <input type="checkbox"/> Rollover IRA |
| <input type="checkbox"/> SEP IRA | <input type="checkbox"/> Keogh |

- Individual / Single
- Estate
- Individual Unincorporated (e.g. DBA)
- Joint With Survivorship (JTWROS)
- Joint No Survivorship (TIC)
- POD / ITF / Totten (Informal)
- Revocable Trust (Formal)
- Irrevocable Trust
- Corporation / Partnership / LLC
- Non-Profit
- Government
- Fiduciary (Broker, IOLTA, UTMA, etc.)

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

Category 1 – Single Account Category

Single Accounts - 12 C.F.R. § 330.6

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

- Sole Proprietorship Deposits:
 - Funds owned by a **Sole Proprietorship or DBA** are insured in this category (not in **Category 7 – Business/Organization**)
 - If a sole proprietorship or DBA is co-owned and the owners have equal rights to withdraw from the account, the account will likely be insured under **Category 2 – Joint Accounts**
- Decedent Deposits or Estate Accounts:
 - Accounts established for a **deceased person** (i.e. Decedent’s or Estate Accounts) are insured in this category (not **Category 3 - Revocable Trust Accounts**)

Category 1 – Single Account Coverage

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

- 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
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Uninsured Amount	\$ 75,000
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Category 2 – Joint Account Requirements

Joint Accounts - 12 C.F.R. § 330.9

Deposits owned by two or more natural persons

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

Category 2 – Joint Account Coverage

- 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 depositor names 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

Are all of the owners fully insured?

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 2 – Joint Account Coverage

Death of an Account Owner

Example: John and Jane Smith opened a joint account for \$500,000. John dies on March 31, 2011. What is the deposit insurance coverage for the account?

For six months after John's death, the account will be insured for \$500,000 as though John was still living. After the six-month grace period, beginning October 1, 2011, assuming the account has not been restructured and Jane does not have any other single accounts at that bank, she would be insured for \$250,000 in her **Category 1 – Single Account** and uninsured for \$250,000

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

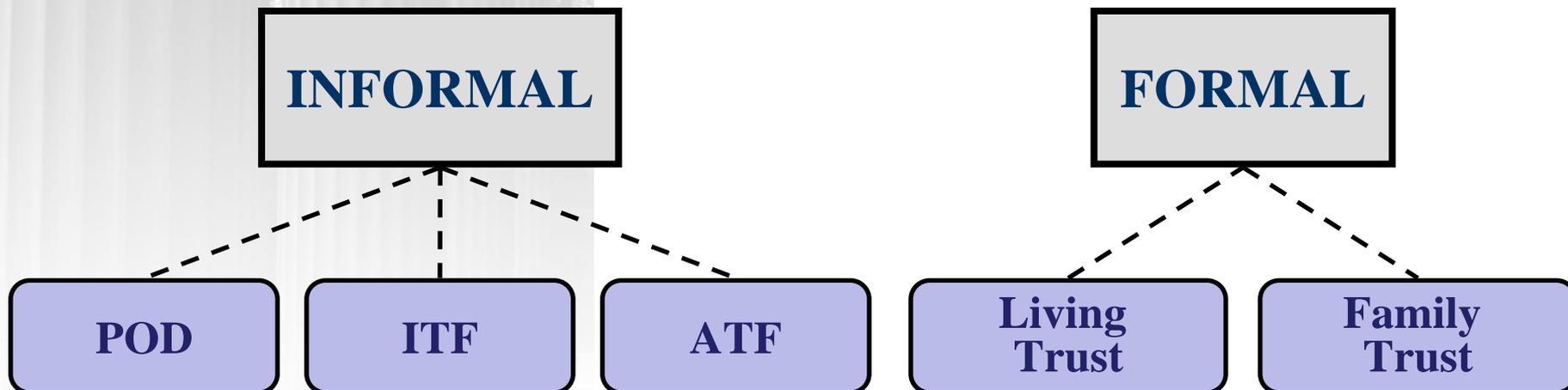
What does revocable mean?

- 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

Category 3 – Revocable Trust Requirements

Updated on October 19, 2009!

12 C.F.R. § 330.10(b) provides that trust relationship must exist in the account title

- Commonly accepted terms such as “payable-on-death”, “in trust for” and “as trustee for” must appear in the account title
 - For purposes of this rule, “title” includes the electronic deposit account records of the bank
 - The FDIC will recognize the account as a revocable trust account provided that the bank’s electronic deposit account records identify the deposit as a POD account. For instance, this designation can be made using a code in the bank’s electronic deposit account records

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?**

Any object or entity that does not meet the eligibility requirements, such as a deceased person, a fictional person or a pet will be considered an invalid beneficiary. Any beneficiary that is not legally entitled to receive funds upon the owner's death will not be considered in determining deposit insurance coverage

- **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”)

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 unequal percentages or dollar amount allocations to the beneficiaries, please call the FDIC at 1-877-275-3342 or sign up for one of the FDIC's 2012 Seminars on Revocable Trust Accounts for Bankers**

Category 3 – Revocable Trust Coverage

Unequal Beneficiary Allocations – POD Account

Example 1:

	<u>Balance</u>
Account #1: John POD Mary	= \$ 350,000
Account #2: John POD Sara	= <u>50,000</u>
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

Category 3 – Revocable Trust Coverage

Unequal Beneficiary Allocations – POD Account

Example 2:	<u>Balance</u>
Account #1: John POD Mary	= \$ 350,000
Account #2: John POD Sara	= <u>175,000</u>
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?

Rule for revocable trusts with 5 or fewer beneficiaries:

$$\text{Number of Owners} \times \# \text{ of Eligible Beneficiaries} \times \$250,000 = \text{Deposit Insurance ("DI") Coverage}$$

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

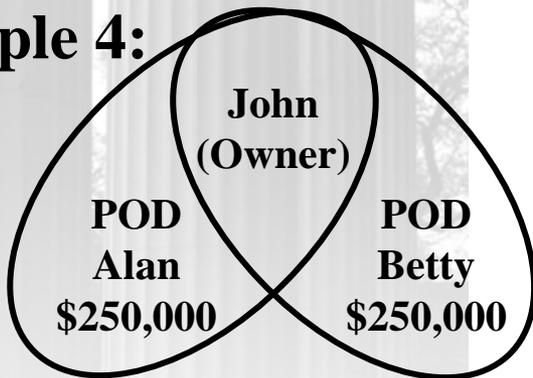
John (Owner)	+	Lisa (Beneficiary)	x	\$250,000	=	\$500,000
(1)	+	(1)	x	\$250,000	=	\$500,000

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

IMPORTANT! Remember that for revocable trusts with 5 or fewer beneficiaries, DI coverage is calculated as the number of owners **times** the number of beneficiaries **times** \$250,000

Category 3 – Revocable Trust Misconceptions

Example 4:



Facts: John POD Alan and Betty

What is the maximum insured amount for this deposit?

Rule for revocable trusts with 5 or fewer beneficiaries:

$$\text{Number of Owners} \times \# \text{ of Eligible Beneficiaries} \times \$250,000 = \text{DI Coverage}$$

Correct Method!

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

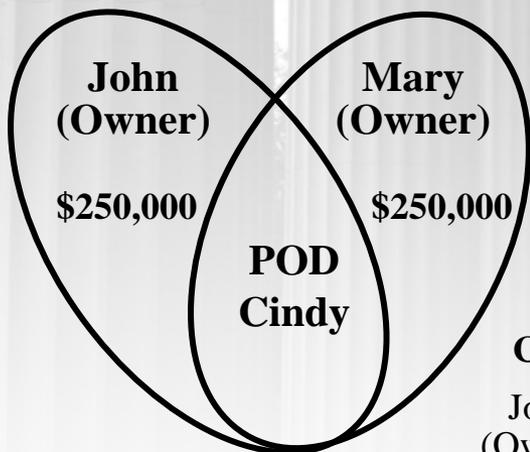
The **misconception** is that deposit insurance is determined by counting or adding the total number of individuals listed on a POD account for a total of \$750,000 in DI coverage. **This is incorrect!**

Category 3 – Revocable Trust Misconceptions

Example 5:

Facts: John and Mary POD Cindy

What is the maximum insured amount for this deposit?



Rule for revocable trusts with 5 or fewer beneficiaries:

$$\text{Number of Owners} \times \# \text{ of Eligible Beneficiaries} \times \$250,000 = \text{DI Coverage}$$

Correct Method!

$$\begin{array}{ccccccc} \text{John (Owner)} & + & \text{Mary (Owner)} & \times & \text{Cindy (Beneficiary)} & \times & \$250,000 = \$500,000 \\ \underbrace{\hspace{10em}} & & & & & & \\ & & (2) & \times & (1) & \times & \$250,000 = \$500,000 \end{array}$$

Incorrect Method!

$$\begin{array}{ccccccc} \text{John (Owner)} & + & \text{Mary (Owner)} & + & \text{Cindy (Beneficiary)} & \times & \$250,000 = \$750,000 \\ (1) & + & (1) & + & (1) & \times & \$250,000 = \$750,000 \end{array}$$

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 6:

Facts: John opened three POD accounts.
What is the maximum insured amount for these deposits?

Account # 1 John POD Alice
Account # 2 John POD Betty and Alice
Account # 3 John POD Betty and Cindy

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 each beneficiary listed on a POD account would be counted even if the same beneficiary is listed repeatedly. **This is incorrect!** Although five names are listed, there are only 3 unique persons (Alice, Betty and Cindy) designated as beneficiaries.

Under FDIC rules, for this example, we use 3 as the number of beneficiaries in the calculation

Correct Method!

$$\begin{array}{r}
 \text{John} \quad \times \quad \text{Alice} \quad + \quad \text{Betty} \quad + \quad \text{Cindy} \quad \times \quad \$250,000 \quad = \quad \$750,000 \\
 \text{(Owner)} \quad \quad \quad \text{(Beneficiary)} \quad \quad \quad \text{(Beneficiary)} \quad \quad \quad \text{(Beneficiary)} \\
 \\
 (1) \quad \times \quad \underbrace{\hspace{15em}}_{(3)} \quad \times \quad \$250,000 \quad = \quad \$750,000
 \end{array}$$

Category 3 – Revocable Trust Calculation

Example 7:

**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 Coverage

Example 8:

	<u>Balance</u>
Account #1: John POD Alice	= \$ 730,000
Account #2: John POD Lisa	= 10,000
Account #3: John POD Betty	<u>= 10,000</u>
Total	= \$ 750,000

While John is alive, the accounts are insured for up to \$750,000. John dies on 01/01/2011 and under the six month rule the accounts can continue to be insurable as if John is alive unless either an account is closed or a named beneficiary takes possession of the account and changes the account title

On 02/01/2011, a month after his death, Lisa, the beneficiary on Account #2, closes the account and withdraws the entire balance of \$10,000

What is the deposit insurance coverage now that Account #2 is closed?

Category 3 – Revocable Trust Coverage

Example 8 (continued):	<u>Balance</u>
Account #1: John POD Alice	= \$ 730,000
Account #2: John POD Lisa	= 10,000
Account #3: John POD Betty	= <u>10,000</u>
Total	= \$ 740,000

As a result of the closure of Account #2, John's deposit insurance coverage is calculated considering only two beneficiaries (Alice and Betty)

The total of the accounts under John's name is now \$740,000, but there are only two beneficiaries and therefore the deposit insurance coverage is reduced to \$500,000 with \$240,000 now being uninsured

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
- 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

- When beneficiaries are named, the FDIC will insure the owner of an HSA deposit under **Category 3 – Revocable Trust Accounts** in the same manner as a payable on death (POD) account

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 Account** 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 (IRAs in non-deposit products are not insured)
Savings Incentive Match Plan for Employees (SIMPLE) IRAs
Simplified Employee Pension (SEP) IRAs

Section 457 deferred compensation plans (whether or not self-directed)
Self-directed defined contribution plans
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

For deposits under this category such as IRAs, deposit insurance coverage cannot and does not increase by adding beneficiaries

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

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**

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 an employee benefit plan has multiple participants with different ownership interests

If the requirements are met, it is possible for pass-through insurance to apply and for the total deposit insurance coverage amount for the plan to exceed \$250,000

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 charter 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 such as partners, officers or directors 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”

Category 8 – Government Accounts

Through December 31, 2012

Accounts held by an official custodian will be insured as follows:

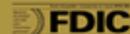
- In-state accounts
 - Up to \$250,000 for the combined amount of all time and savings accounts (including NOW accounts)
 - Up to \$250,000 for the combined amount of all interest-bearing demand deposit accounts, and
 - Unlimited coverage for noninterest-bearing demand deposit accounts
- Out-of-state accounts
 - Up to \$250,000 for the combined amount of all time accounts, savings accounts (including NOW accounts) and interest-bearing demand deposit accounts, and
 - Unlimited coverage for noninterest-bearing demand deposit accounts

Category 8 – Government Accounts

Beginning on January 1, 2013

Accounts held by an official custodian will be insured as follows:

- In-state accounts
 - Up to \$250,000 for the combined amount of all time and savings accounts (including NOW accounts) and
 - Up to \$250,000 for all demand deposit accounts (interest-bearing and noninterest-bearing)
- Out-of-state accounts
 - Up to \$250,000 for the combined total of all deposit accounts



Deposit Insurance for Accounts Held by Government Depositors

Section 330.15 of the FDIC's regulations (12 C.F.R. 330.15) governs the insurance coverage of public unit accounts. For deposit insurance purposes, the term "public unit" includes a state, county, municipality, or "political subdivision" thereof. Under section 330.15, the "official custodian" of the funds belonging to the public unit – rather than the public unit itself – is insured as the depositor.

Permanent Rule

The insurance coverage of public unit accounts depends upon the type of deposit and the location of the insured depository institution. All time and savings deposits owned by a public unit and held by the same official custodian in an insured depository institution within the State in which the public unit is located are added together and insured up to \$250,000. Separately, all demand deposits owned by a public unit and held by the same official custodian in an insured depository institution within the State in which the public unit is located are added together and insured up to \$250,000. For the purpose of these rules, the term 'savings deposits' includes NOW accounts and money market deposit accounts but does not include interest-bearing demand deposit accounts (which will be permitted after July 21, 2011, as discussed in greater detail below). The term 'demand deposits' means deposits payable on demand and for which the depository institution does not reserve the right to require advance notice of an intended withdrawal. The insurance coverage of accounts held by government depositors is different if the depository institution is located outside the State in which the public unit is located. In that case, all deposits owned by the public unit and held by the same official custodian are added together and insured up to \$250,000. Time and savings deposits are not insured separately from demand deposits.

As mentioned above, a political subdivision (through its official custodian) is entitled to its own insurance coverage. The term "political subdivision" is defined to include drainage, irrigation, navigation, improvement, levee, sanitary, school or power districts, and bridge or port authorities and other special districts created by state statute or compacts between the states. The term "political subdivision" also includes any subdivision or principal department of a public unit (state, county, or municipality) if the subdivision or department meets the following tests:

- The creation of the subdivision or department has been expressly authorized by the law of such public unit;
- Some functions of government have been delegated to the subdivision or department by such law;

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

Note: The payment of T&I is unaffected

T&I payments are still insured on a pass-through basis as the single ownership funds of each respective mortgagor

Category 10 – Noninterest-bearing Transaction Accounts

12 C.F.R. § 330.16(a)

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 ("Dodd-Frank Act"), depositors with noninterest-bearing transaction accounts have unlimited deposit insurance coverage for two years, from December 31, 2010 through December 31, 2012

Category 10 – Noninterest-bearing Transaction Accounts

- 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 a depositor's other interest-bearing accounts held at an FDIC-insured bank
 - Coverage is available to all depositors, including consumers, businesses and government entities

Category 10 – Noninterest-bearing Transaction Accounts

- A noninterest-bearing transaction account is a deposit account where:
 1. Interest is neither accrued nor paid;
 2. Depositors are permitted to make an unlimited number of transfers or withdrawals and;
 3. 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

Category 10 – Noninterest-bearing Transaction Accounts

Difference between an interest-bearing Demand Deposit Account (“DDA”) and a NOW Account

NOW Accounts	DDA
<p>IDI reserves the right to require at least seven days' written notice prior to withdrawal or transfer of any funds (See 12 C.F.R. § 204.2(e)(2))</p>	<p>IDI <u>does not</u> reserve the right to require at least seven days' written notice of an intended withdrawal (See 12 C.F.R. § 204.2(b)(1))</p>
<p>Only individuals, nonprofit organizations and governmental units can own a NOW account; for-profit entities are expressly prohibited from holding NOW accounts</p>	<p>Any depositor can own a demand deposit account</p>

Note: NOW accounts are **not** considered Noninterest-bearing Transaction Accounts for purposes of unlimited coverage under the Dodd-Frank Act

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**

Owners = 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

	<u>Category 1</u>	<u>Category 2</u>	<u>Category 3</u>	<u>Category 5</u>	
	Single Accounts	Joint Accounts	Revocable Trust Accounts*	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

Deposit Insurance Seminar

PART 4

FIDUCIARY and AGENCY ACCOUNTS

Fiduciary and Agency Accounts

Fiduciary and Agency Accounts

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 Smith, 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

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PART 5

BANK MERGERS AND FAILURES

Bank Mergers and Failures

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

Bank Mergers and Failures

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

Bank Mergers and Failures

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

Bank Mergers and Failures

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?**

Bank Mergers and Failures

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

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PART 6

DEPOSIT INSURANCE COVERAGE RESOURCES

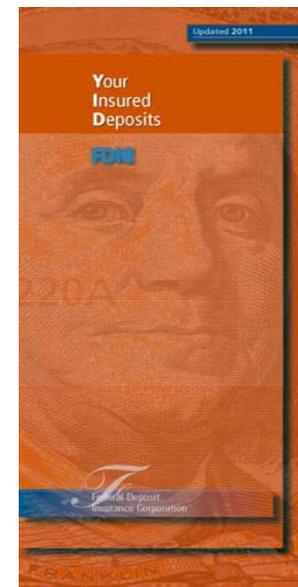
FDIC Resources

FDIC Deposit Insurance Coverage Website
www.fdic.gov/deposit/deposits

Calculator:
Electronic Deposit Insurance Estimator

Brochures:
Deposit Insurance Summary
Your Insured Deposits

Videos:
Overview on Deposit Insurance Coverage



FDIC Deposit Insurance Product Catalogue
<https://vcart.velocitypayment.com/fdic>

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**