FEDERAL DEPOSIT INSURANCE CORPORATION

New Trust Account Rule (April 2024)
Deposit Insurance Seminar For Bankers

FDIC
FEDERAL DEPOSIT INSURANCE CORPORATION

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Outline

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- On the FDIC website at www.fdic.gov
- In the search box in the upper right hand corner, type in "webinars" and press enter
- Look for a link titled deposit insurance banker webinars.
- Once on the FDIC's banker webinars page, scroll towards the middle of the page and look for a header titled New Rules for Revocable and Irrevocable Trusts and click on it.
- If you have any questions, please call us at 1-877-275-3342.

https://ask.fdic.gov/fdicinformationandsupportcenter/s/

Part 1 – Overview of New Trust Account Rule

Overview

- On January 21, 2022, the FDIC adopted a new deposit insurance rule for “trust accounts” that is easier for bankers and depositors to understand.

- **The new trust account rule does not go into effect until April 1, 2024.**

- The new rule simplifies insurance coverage for trust accounts by:

  - reducing the number of insurance rules for trust accounts;
  - eliminating complexities from the revocable and irrevocable trust rules; and
  - utilizing the same familiar, straightforward insurance calculation for both revocable and irrevocable trusts.

Overview – Scope & Familiar Insurance Rule

- Combines categories. The new trust account rule will combine the irrevocable trust (§330.13) and revocable trust (§330.10) categories into a single category called "Trust Accounts". The new trust account category will include:
  - formal revocable trusts (§330.10);
  - informal revocable trusts (e.g., POD/ITF accounts from 330.10); and
  - irrevocable trusts (§330.13).

- Familiar insurance rule. Under the Trust Account category, each trust owner will be insured up to $250,000 per eligible primary beneficiary, up to a maximum of five beneficiaries.
  - Similar to the current revocable trust rules, an "eligible" beneficiary can be any living person or an IRS-recognized charity/non-profit. Only "primary" (not contingent) beneficiaries count.

Overview – Familiar Insurance Rule

- The new trust account insurance calculation is the same calculation the FDIC has used since 2008 for a revocable trust **with 5 or fewer beneficiaries.**

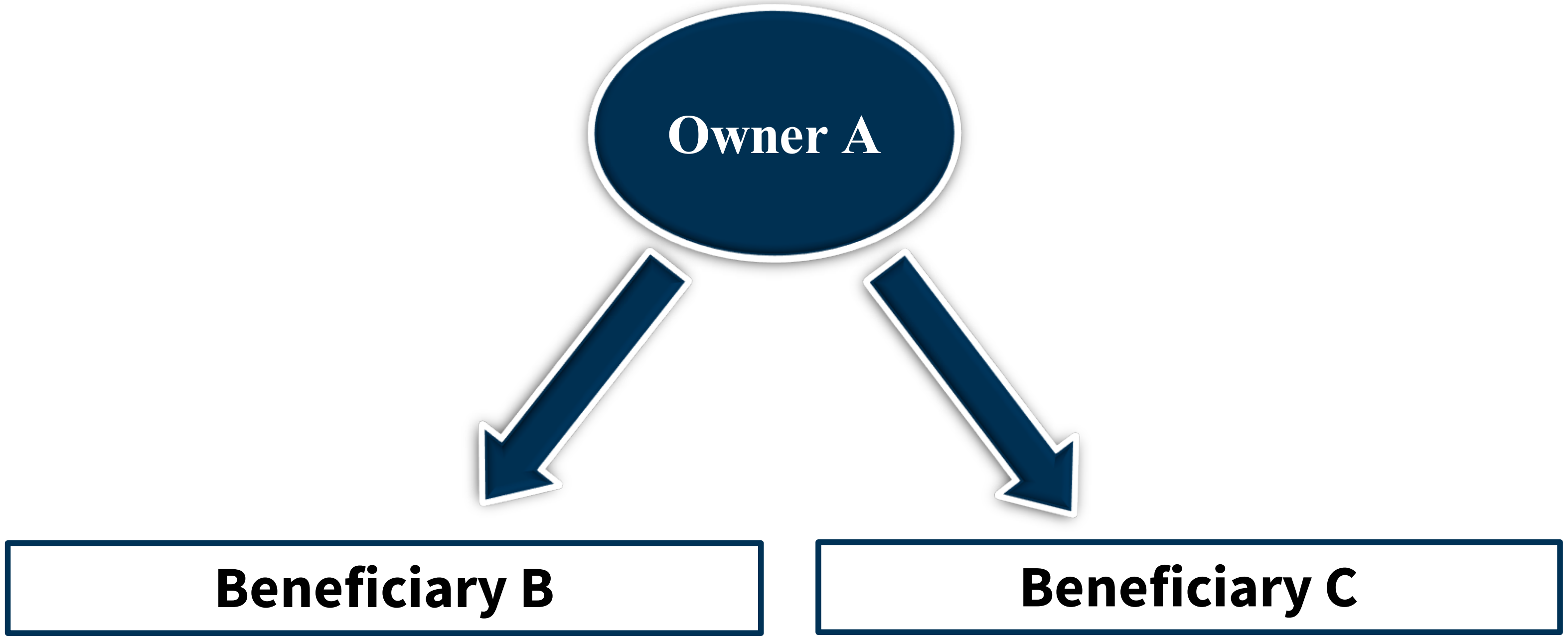
- In the new trust account category, each trust owner's insurance limit will be determined by how many eligible beneficiaries (up to 5) are in their trust(s).

- For example, a trust owner with four eligible, primary beneficiaries is insured up to $1,000,000 (or 1 x 4 x $250k = $1M).

Number of trust owners	Number of beneficiaries	Insurance limit
1	1	$250,000
1	2	$500,000
1	3	$750,000
1	4	$1,000,000
1	5	$1,250,000
1	5+	$1,250,000

Part 2 – Examples of the New Trust Account Rule

Revocable Trust Example – 1 owner, 2 beneficiaries



Owner A has opened a revocable trust account and identified two eligible beneficiaries - B and C.

What is the maximum amount that can be insured under the current rule?
What is the maximum amount that can be insured under the new trust rule?

Revocable Trust Example – 1 owner, 2 beneficiaries

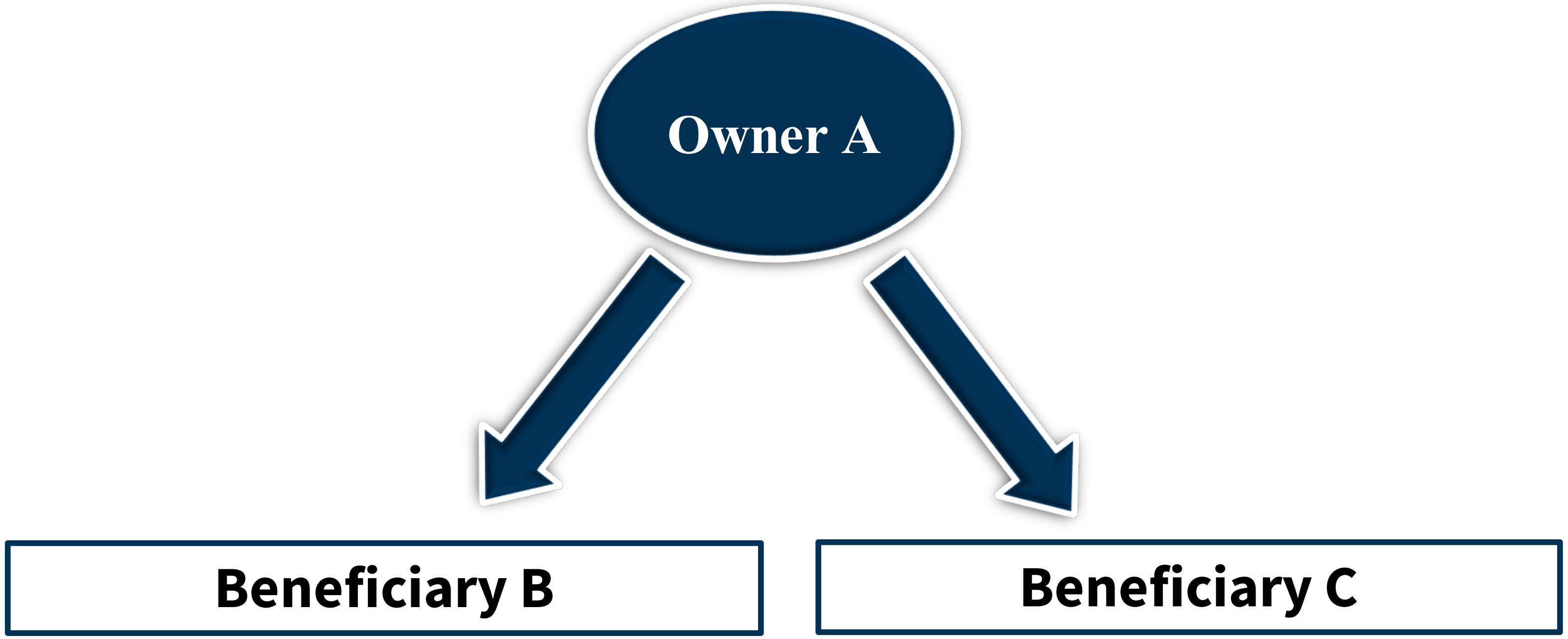
- In this example, there is 1 trust owner and 2 beneficiaries.
- All of the owner's deposit accounts are titled in their revocable trust.
- The insurance limit is $500,000

  (1 x 2 x $250,000 = $500,000)

Number of trust owners	Number of beneficiaries	Insurance limit
1	1	$250,000
1	2	$500,000
1	3	$750,000
1	4	$1,000,000
1	5	$1,250,000
1	5+	$1,250,000

- In this example, the New Trust Rule uses the exact same insurance calculation that is used under the current rules to determine the insurance limit.

Irrevocable Trust Example – 1 owner, 2 beneficiaries



An irrevocable trust with one owner (A) identifies two eligible beneficiaries - B and C.

What is the maximum amount that can be insured under the current rule?
What is the maximum amount that can be insured under the New Rule?

Irrevocable Trust Example – 1 owner, 2 beneficiaries

- In this example, there is 1 trust owner and 2 beneficiaries.
- All of the owner's deposit accounts are titled in their irrevocable trust.
- The insurance limit is $500,000 (calculated as 1 x 2 x $250,000 = $500,000).

Number of trust owners	Number of beneficiaries	Insurance limit
1	1	$250,000
1	2	$500,000
1	3	$750,000
1	4	$1,000,000
1	5	$1,250,000
1	5+	$1,250,000

- Under the new Trust Rule, insurance limits for irrevocable trusts will be calculated the same as for revocable trusts. Also, the calculation for irrevocable trust will be simplified.

Same trust owner has both revocable and irrevocable trust accounts

- A depositor is the sole grantor of both a revocable and irrevocable trust. All of their bank accounts are titled as trust accounts. Some are titled in the name of the irrevocable trust and some are titled in the name of the revocable trust.

- What are the insurance limits under the current rules (revocable and irrevocable)? What will the insurance limit be under the new trust rule?

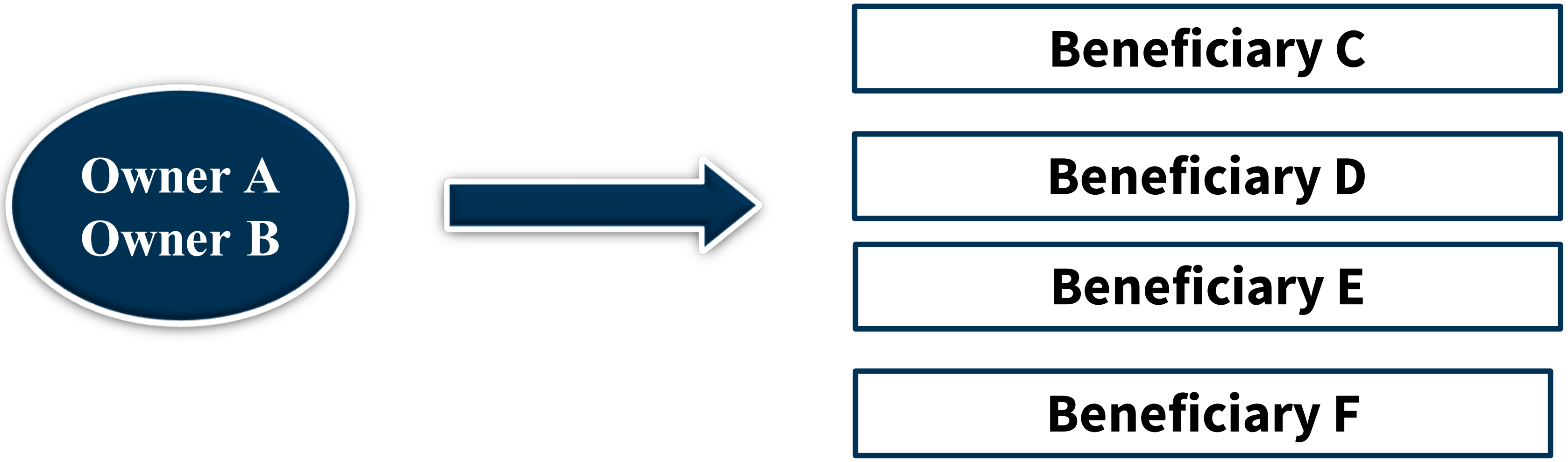
- Key facts: The revocable trust identifies 3 children as beneficiaries and the irrevocable trust names 2 grandchildren as beneficiaries.
  - Also, the irrevocable trust may have a grantor retained interest and it's not clear if the grandkids have 'contingent' or 'non-contingent' trust interests. A lawyer may be needed.

Same trust owner has both revocable and irrevocable trust accounts at the same bank

- Under the new trust rule, the insurance limit with one owner and 5 or more eligible beneficiaries will be up to $1,250,000 per insured bank.
- As long as the combined balance of their revocable and irrevocable trust accounts is $1.25 million or less, the depositor is fully insured.
- Insurance for the irrevocable trust portion will be easier to figure out under the new trust rule.

Number of trust owners	Number of beneficiaries	Insurance limit
1	1	$250,000
1	2	$500,000
1	3	$750,000
1	4	$1,000,000
1	5+	$1,250,000

Revocable Trust – 2 owners, 4 beneficiaries



- ❑ Bank depositors – A and B – set up all of their deposit accounts as payable on death to their two kids and two favorite charities (recognized by the IRS).
- ❑ What will their insurance limit be under the new trust account rule?

Example – Revocable Trust Example – 2 owners, 4 beneficiaries

- With 2 owners and 4 eligible beneficiaries, the owners' accounts would be added together and the combined balance insured up to $2,000,000.

- In this example, the New Trust Rule uses the exact same insurance calculation that is used today to figure out the insurance limit: 2 owners x 4 eligible beneficiaries x $250,000.

Number of trust owners	Number of beneficiaries	Insurance limit
2	1	$500,000
2	2	$1,000,000
2	3	$1,500,000
2	4	$2,000,000
2	5+	$2,500,000

Example Summary – Key Points

- These examples used some simplifying assumptions to help illustrate how insurance limits will be calculated under the new trust account rule starting April 1, 2024.

- Some depositors with more complicated account structures, e.g., depositors A and B have co-owned trust accounts and in addition, Depositor A has some one-owner trust accounts. Whether under the current rules or when the new rules are in effect, if the account structure is complex, the analysis may be as well. Please contact us if you need some assistance in determining your depositor's insurance coverage

- As you saw in some examples, the current insurance rules and the new insurance rule were exactly the same. As you will see in the next few slides, in other examples, the new trust rule will be different.

Part 3 – How the New Trust Account Rule, Affects Coverage

Depositors Whose Coverage Will Not Be Affected

- A significant percentage of depositors will not be directly impacted by the trust account insurance rule. For example:
  - Any depositor with a total deposit of $250,000 or less per bank.
  - Depositors with accounts in the other ownership categories:

New Trust Rules – Change to only Deposit Insurance Ownership Categories	
Single Accounts (no beneficiaries)	Public Bond Accounts
Joint Accounts (no beneficiaries)	IDIs As Trustee of an Irrevocable Trust
Certain Retirement Accounts, e.g., IRAs	Annuity Contract Accounts
Employee Benefit Plan Accounts	Custodial Accounts for Native Americans
Corps., Partnerships and Unincorporated Assoc.	Bank Accounts related to DOE Program
Government Accounts	

* The Mortgage Servicing Account ownership category was amended as part of the simplification rule FIL-07-2022

Depositors Whose Coverage Will Not Be Affected

- Even for depositors with trust accounts – revocable or irrevocable – many will not see a change in their insurance limit.

- Example 1: A revocable trust owner who is fully insured under the current revocable trust rules for five or fewer beneficiaries will remain insured under the new trust rules. They have no irrevocable trusts on deposit.

Number of trust owners	Number of beneficiaries	Insurance limit
1	1	$250,000
1	2	$500,000
1	3	$750,000
1	4	$1,000,000
1	5	$1,250,000

Depositors Whose Coverage Will Not Be Affected

- ❑ Example 2: A revocable trust owner(s) with 6 or more eligible beneficiaries and is currently insured up to $1.25 million. They have no irrevocable trusts. Under the new rule, their coverage remains up to $1.25 million per owner, per bank.

- ❑ Example 3: A revocable trust owner(s) with 6 or more eligible beneficiaries who want to insure <u>no more than</u> $1.25 million per bank, per owner. They have no irrevocable trusts. Under the new rule, their coverage remains the same.

- ❑ Example 4: An irrevocable trust owner with less than $250,000 and no revocable trust deposits. Under the new rule, their coverage remains the same.

- ❑ Example 5: An irrevocable trust owner, up to five beneficiaries with non-contingent trust interests and no revocable trust deposits. Under the new rule, their coverage remains the same.

Coverage May Decrease For Some Depositors

- In limited situations, coverage will decrease and your depositors may ask about the new trust account rule:

- Example #1: A single depositor who is insured under the current revocable trust rules for <u>more than</u> $1.25 million per bank. Under the new trust rule, the limit will be up to $1.25 million per bank (even if you have a trust with more than five beneficiaries).

- Example #2: <u>Two</u> co-grantors who are insured under the current revocable trust account category for <u>more than</u> $2.5 million per bank. The new trust rule, the limit will be up to $2.5 million per bank (even with you have a trust with more than 5 beneficiaries).

Coverage May Increase For Some Depositors

- In other cases, deposit insurance limits will increase and the calculation will be easier for bankers and depositors.

- Example #1: Under current rules, even if an irrevocable trust has multiple beneficiaries, insurance coverage for irrevocable trusts is <u>usually limited to $250,000</u> per bank because the beneficial interests typically have contingencies attached. It's often complicated.

- Under the new trust rule, the insurance limit with one owner and three eligible beneficiaries will be up to $750,000 per bank. It will be easier to determine coverage for irrevocable trusts.

Part 4 - Complex Rules Eliminated

Complex Revocable Rules Eliminated

- The new rules eliminate the current revocable trust **rule for six or more beneficiaries** (§330.10(e)).
  - Currently, the most complex revocable trust calculations involve six or more beneficiaries and complex trust agreements.
  - Calculating insurance will be much easier under the new rule, even with a complex trust with six or more eligible beneficiaries.
- Some rare but complicated rules will also be eliminated—for example, beneficial interests outside the definition of beneficiary (§330.10(d)). One example of such a rule was how do the insurance rules work when a trust owner identifies a pet as a beneficiary.

Complex Revocable Rules Eliminated

- Under the new trust rules, insurance limits for revocable trusts that become irrevocable will be less complicated to apply since the springing trust rules will be eliminated (§330.10(h) - (i)).

- The springing trust rule helps reduce confusion in some cases, but it can also be complicated and confusing in other situations.

- The new trust rule will further reduce confusion and make it easier to determine coverage when a revocable trust becomes irrevocable due to a trust owner's death.

Complex Revocable Rules Eliminated

- Under the current rules for informal revocable trusts (POD/ITFs), bank records must indicate the account is a POD/ITF account.

- Consumers often have difficulty verifying that POD/ITF (or something similar) is in the bank's records, e.g., a bank may code informal trust accounts a particular way as a proxy for POD/ITF.

- The new trust rule does not include this titling requirement for informal revocable trusts. While POD or ITF are no longer required, the beneficiaries of informal trusts still have to be identified in bank records.

Complex Irrevocable Trust Rules Eliminated

- Contingent vs Non-Contingent Trust interests (§330.13(a)-(b)). Under the current rules, depositor may need legal or financial advice to determine the terms of their trust and calculation coverage. These terms will no longer be considered in determining coverage.

  - Non-contingent trust interest – "a trust interest capable of determination without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031-7 of the Federal Estate Tax Regulations (26 CFR 20.2031-7) or any similar present worth or life expectancy tables which may be adopted by the Internal Revenue Service."

- Grantor retained interest & "trust interest". Currently, if an irrevocable trust grantor retains an interest in their irrevocable trust, that interest must be valued precisely and insured under the single account category (not the irrevocable trust category). This will no longer be considered in determining coverage.

Clarifying Updates to the Trust Rules

- ❑ Informal revocable trusts payable on death to formal trusts. Consistent with our current approach, these accounts will be treated as if they are titled in the name of the formal trust. For example:
  - ❖ An account titled "A POD to A's Revocable Living Trust"
  - ❖ An account titled "A or B POD to A and B's Revocable Living Trust"

- ❑ Identifying trusts as beneficiaries. We hear from consumers who say their trust identifies other trusts (not people) as beneficiaries, e.g., a special needs trust or credit shelter trust. Consistent with our current approach, under the new trust regulation the FDIC will look through the "future trust" to identify "eligible" beneficiaries.

Part 5 - Deposit Insurance Coverage Resources

Deposit Insurance Coverage Resources

- ❑ Many of the FDIC's deposit insurance resources are available on FDIC's Deposit Insurance Coverage homepage - fdic.gov/resources/deposit-insurance/.
- ❑ FDIC's Electronic Deposit Insurance Estimator (EDIE) - https://edie.fdic.gov/index.html.
- ❑ FDIC's Your Insured Deposits – a written guide for use and distribution to depositors - https://www.fdic.gov/deposit/deposits/brochures/your-insured-deposits-english.html.
- ❑ Financial Institution Employee's Guide to Deposit Insurance (Employee's Guide) – https://www.fdic.gov/deposit/DIGuideBankers/index.html.
- ❑ FDIC's Online Product Catalogue – https://catalog.fdic.gov/.
- ❑ FDIC's toll free number 1-877-ASK-FDIC or 1-877-275-3342

FDIC Information and Support Center

FDIC Information and Support Center

The FDIC Information and Support Center allows users with inquires or complaints about financial institutions, bank failures, or deposit insurance coverage to open cases with the FDIC for assistance and resolution.

Registered Users Can:

- Submit a question, deposit insurance coverage inquiry, or complaint against an FDIC-insured institution.
- Submit requests regarding lien releases, insured depositor claims, non-depositor claims, borrower questions and other issues surrounding a bank failure.
- Securely exchange documents and responses in order to protect your personal information.
- Log-in to check on the status of your cases.

Guest Users Can:

- Submit a question, deposit insurance coverage inquiry, or complaint against an FDIC-insured institution.
- Submit a question or concern whether a person or entity has made false or misleading representations about the existence of deposit insurance by misusing the name or logo of the FDIC or whether a person or entity has made other misrepresentations about the existence, extent or manner of deposit insurance.

Contact the Ombudsman when you need to:

- Submit anonymous whistleblower concerns and inquiries or complaints to The Office of the Ombudsman regarding the FDIC itself, its practices and procedures.

Questions or problems: Please contact the FDIC Contact Center at 1-877-ASK-FDIC (877-275-3342), per the times listed below.

As a Registered User, you may submit a request, inquiry, or complaint about a financial institution, a bank failure, or deposit insurance coverage.

Register and Submit

Login to Check Status

As a Guest User, you may submit a deposit insurance coverage inquiry, a complaint against a bank, or other inquiry. To be able to access your case or a previously submitted case, please file your complaint as a Registered User. We require personal contact information in order to respond to your inquiry or complaint.

Submit Request as Guest User

https://ask.fdic.gov/fdicinformationandsupportcenter/s/

Thank you for participating in the seminar!