

Claims Manual - Volume II

Table of Contents

Chapter	Title
Chapter 1:	<u>Introduction to the Claims Manual</u>
Chapter 2:	<u>Overview of the Deposit Insurance Determination Process</u>
Chapter 3:	<u>Deposit Insurance Rules and Regulations</u>
Chapter 4:	<u>General Insurance Principles</u>
Chapter 5:	<u>Single Ownership Accounts</u>
Chapter 6:	<u>Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator</u>
Chapter 7:	<u>Annuity Contract Accounts</u>
Chapter 8:	<u>Joint Ownership Accounts</u>
Chapter 9:	<u>Revocable Trust Accounts</u>
Chapter 10:	<u>Accounts of a Corporation, Partnership or Unincorporated Association</u>
Chapter 11:	<u>Accounts Held by Depository Institutions as Trustee of an Irrevocable Trust</u>
Chapter 12:	<u>Irrevocable Trust Accounts</u>
Chapter 13:	<u>Retirement And Other Employee Benefit Plan Accounts</u>
Chapter 14:	<u>Public Unit Accounts</u>
Chapter 15:	<u>Department of Energy ("DOE") Accounts</u>

Chapter 1

Introduction to the Claims Manual

Contents

This chapter contains the Introduction to the FDIC Claims Deposit Insurance Manual – Volume II (“Claims Manual – Volume II”):

Topic Title	Page Number
<u>Overview</u>	<u>1-1</u>
<u>Scope of Manual</u>	<u>1-1</u>
<u>Organization of Manual</u>	<u>1-2</u>
<u>Chapter Organization</u>	<u>1-2</u>

Overview

The Division of Resolutions and Receiverships (DRR) Claims Manual- Volume II provides policies and procedures for performing the deposit insurance determination function associated with a failed financial institution. The manual also contains the regulatory framework that provides for separate insurance in each type of ownership category.

Scope of Manual

The Claims Manual – Volume II provides the framework in which to make deposit insurance determinations. Because deposit insurance coverage is based on the concept of ownership rights and capacities, and since ownership categories are insured separately from one another, separate chapters have been developed for each type of ownership category. Contained within those chapters are the specific requirements that must be met, and documentation that must be obtained, before a depositor may qualify for deposit insurance under that category. Examples reflecting the correct application of the requirements are also presented. Since this manual focuses on the policies and general procedures to be employed when determining deposit insurance, it does not provide guidance for every situation that may arise.

The Claims Manual – Volume II should be used in conjunction with other reference and resource tools that contain relevant material relating to deposit insurance. These include:

Receivership Liability System (RLS) User's Manual
RLS Deposit Broker Processing User's Manual
Deposit Brokers Web Site
RLS Operations Manual
FDIC DRR Claims Computer Based Instruction (CBI)
FDIC DRR Advanced Claims Class
Claims Manual – Volume I

Generally, the Claims Manual – Volume II will not duplicate the guidance and materials found in the above referenced resources. Therefore, Claims personnel performing deposit insurance determinations should be familiar with the above referenced materials.

Organization of Manual

The Claims Manual is divided into two (2) Volumes. Volume I primarily focuses on the policies and procedures relative to performing the Claims function (matters other than deposit insurance determinations) while Volume II focuses on how to perform the deposit insurance determination function.

Within Volume II, separate chapters have been created for each ownership category and, generally, parallel the order found in 12 C.F.R. 330.

Chapter Organization

Each Chapter within the manual will typically have the following component parts:

Overview - This provides useful background information on the specific topic of that Chapter.

Policy Statement - Provides guidance relative to the rules.

Legal Reference - Provides the statute(s) and regulations applicable to the deposit insurance determination process associated with a particular ownership category.

Definitions - An explanation of terms common to that type of ownership category.

Insurance Determination - A procedures component that discusses how to accomplish the tasks at hand.

Documentation - Lists the material that may be needed for determining insurance coverage on a depositor.

Examples - Provides situations and the proper application of requirements when calculating insurance coverage.

Exhibits - Provides the forms that need to be completed when performing insurance coverage for that category type.

This organizational structure is intended to provide the reader with a systematic approach for finding material within each chapter, thereby enhancing the value and usability of the manual.

Chapter 2

Overview of the Deposit Insurance Determination Process

Contents

This chapter contains the following information on Overview of the Deposit Insurance Determination Process:

Topic Title	Page Number
Overview	2-1
Policy Statement	2-1
Legal Reference	2-1
Definitions	2-2
Insurance Determination Process	2-2

Overview

The deposit insurance regulations provide separate deposit insurance coverage for funds based on ownership rights and capacities. In the following chapters, the determination of deposit insurance for each category of ownership will be discussed. This chapter is intended to provide an overview of the deposit insurance determination process regardless of the ownership category.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Many of the general insurance principles are included within the Federal Deposit Insurance Act (FDI Act) 12 U.S.C. 1821 as well as 12 C.F.R 330.

Definitions

Certain words and terms important in the deposit insurance determination process are defined in law and/or regulation. However, the following terms are unique to the FDIC's claims process:

Download

The capture of the deposit liabilities in the form of electronic data (usually a tape) from the failed (or failing) institution as of a certain date.

Group

One or more accounts, aggregated by ownership type, that is over or potentially over the limit of deposit insurance (\$100,000).

Grouping

The process of aggregating accounts by depositor and ownership category.

Insurance Determination Process

The process of making deposit insurance determinations is a combination of manual and electronic tasks. The Receivership Liability System (RLS) is used for many of these functions; however, there are still manual steps that must be performed.

Once the institution has been closed, the Business Information Section (BIS) of DRR obtains an electronic download of the deposit liabilities. BIS reconciles the download to the institution's deposit trial balances and loads the data to RLS. While BIS is doing that reconciling, Claims Specialists are reconciling and entering into RLS the institution's outstanding official items. See the Claims Manual Volume I, [Section IV Chapter D: Download & Reconciliation of Official Items](#). Once the data (deposit liabilities and official items) is in RLS, the Claims Specialist (or administrator) performs the grouping, setting parameters as described in the Claims Manual Volume I, [Section IV Chapter F: Performing the Grouping Function](#), and the RLS User's Manual, [Appendix E: RLS Grouping Process Information](#).

After this initial grouping is performed, the Claims Specialist produces a grouping report from RLS. The grouping report is reviewed and edited as described in the Claims Manual Volume I, [Section IV Chapter F: Performing the Grouping Function](#). Once a final grouping report is prepared, additional RLS reports are produced. These include the Excess Register, the Excess Register-Pass Hold, the

Uninsured Deposit Analysis form, and the XX/PH Worksheet for each individual group. These reports are described in the Claims Manual Volume I, Section IV Chapter F: Performing the Grouping Function. If needed, signature cards, certificate of deposit records and other depositor documentation available at the institution are obtained in order to make insurance determinations for those groups over or potentially over the insurance limit.

The Claims Specialist may also contact the depositor to complete the insurance determination. See the Claims Manual Volume I, Section IV Chapter J: Meeting With Customers of a Failed Institution, for information on meeting with the depositor to complete the determination. As an example, the Claims Specialist may ask for additional documentation, such as a Declaration for Testamentary Deposit form, in order to finalize the insurance determination for account(s) insured under the revocable trust category.

In some circumstances, the Claims Specialist may also request a legal opinion from FDIC Legal before finalizing the insurance determination.

To finalize the insurance determination, the Claims Specialist must process the paperwork and RLS transactions to either issue a Receivership Certificate to the depositor (if the depositor is uninsured), release the funds on hold if the depositor is determined to be fully insured, or a combination of both in the case of a depositor who is partially insured and partially uninsured. These procedures are described in the Claims Manual Volume I, Section IV Chapter K: Account Hold Release Process.

The general flow of work relating to the deposit insurance determination process is as follows:

Step	Action
1	Obtain Deposit Download.
2	Reconcile to Deposit Trial Balances.
3	Import Official Items.
4	Run grouping in RLS.
5	Produce electronic or hard copy grouping reports.
6	Manually edit the grouping reports.
7	Enter edits in RLS.
8	Produce RLS reports of accounts over or potentially over the insurance limit.
9	Obtain documentation as needed and meet with depositors.
10	Obtain legal opinion – as needed.
11	Finalize the insurance determination.
12	Process paperwork/RLS transactions to release account holds or issue Receivership Certificates, as appropriate.

Chapter 3

Deposit Insurance Rules and Regulations

Contents

This chapter contains the following information on Deposit Insurance Rules and Regulations:

Topic Title	Page Number
<u>Overview</u>	3-1
<u>Part 330—Deposit Insurance Coverage</u>	

Overview

The Federal Deposit Insurance Act provides that “[t]he net amount due to any depositor at an insured depository institution shall not exceed \$100,000....” 12 U.S.C. § 1821(a)(1)(B). The Act also provides that the FDIC, in applying this \$100,000 limit, “shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor....” 12 U.S.C. § 1821(a)(1)(C). On the basis of this statutory language, the FDIC has recognized certain categories of deposit accounts (accounts held by a depositor in the same “capacity and right”) that are insured separately up to the \$100,000 limit.

What follows are the FDIC deposit insurance regulations. The rules and regulations described here are delineated in Part 330—Deposit Insurance Coverage. The provisions of this Part 330 appear at 55 Fed. Reg. 20111, May 15, 1990, except as otherwise noted.

Chapter 4

General Insurance Principles

Contents

This chapter contains the following information on General Insurance Principles:

Topic Title	Page Number
Overview	4-1
Policy Statement	4-1
Legal Reference	4-1
Definitions	4-2
General Principles	4-6
Examples of Insurance Coverage	4-15

Overview

Certain concepts or “principles” are the bases for determining deposit insurance coverage. These concepts are embedded in law or regulation. Knowledge of these concepts is required in order to make proper deposit insurance determinations. Such concepts or “principles” are discussed in this chapter.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Many of the general insurance principles are included within the Federal Deposit Insurance Act (FDI Act) 12 U.S.C.1821, 12 U.S.C. 1813 as well as 12 C.F.R. 330.3, 12 C.F.R. 330.4, 12 C.F.R. 330.5 and 12 C.F.R. 204.8.

Definitions

Certain words and terms important in the deposit insurance process are defined in law and/or regulation. Because of the significance of those definitions, some of them are included verbatim below:

Deposit

See 12 U.S.C. 1813 (l). **(Verbatim)**

1. the unpaid balance of money or its equivalent received or held by a bank or savings association in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time or thrift account, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the bank or savings association, or a letter of credit or a traveler's check on which the bank or savings association is primarily liable: *Provided*, That, without limiting the generality of the term "money or its equivalent", any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining any such credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to such bank or savings association for collection.
2. trust funds as defined in this chapter received or held by such bank or savings association, whether held in the trust department or held or deposited in any other department of such bank or savings association.
3. money received or held by a bank or savings association, or the credit given for money or its equivalent received or held by a bank or savings association, in the usual course of business for a special or specific purpose, regardless of the legal relationship thereby established, including without being limited to, escrow funds, funds held as security for an obligation due to the bank or savings association or others (including funds held as dealers reserves) or for securities loaned by the bank or savings association, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States Government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes: *Provided*, That there shall not be included funds which are received by the bank or savings association for immediate application to the reduction of an indebtedness to the receiving bank or savings association, or under condition that the receipt thereof immediately reduces or extinguishes such an indebtedness.

4. outstanding draft (including advice or authorization to charge a bank's or savings association's balance in another bank or savings association), cashier's check, money order, or other officer's check issued in the usual course of business for any purpose, including without being limited to those issued in payment for services, dividends, or purchases, and

5. such other obligations of a bank or savings association as the Board of Directors, after consultation with the Comptroller of the Currency, Director of Office of Thrift Supervision, and the Board of Governors of the Federal Reserve System, shall find and prescribe by regulation to be deposit liabilities by general usage, except that the following shall not be a deposit for any of the purposes of this Act or be included as part of the total deposits or of an insured deposit:

(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless-

(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and

(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State;

(B) any international banking facility deposit, including an international banking facility time deposit, as such term is from time to time defined by the Board of Governors of the Federal Reserve System in regulation D or any successor regulation issued by the Board of Governors of the Federal Reserve System.

(C) any liability of an insured depository institution that arises under an annuity contract, the income of which is tax deferred under section 72 of the Internal Revenue Code of 1986.

Insured deposit

See 12 U.S.C. 1813 (m). **(Verbatim)**

1. IN GENERAL. - Subject to paragraph (2), the term "insured deposit" means the net amount due to any depositor in an insured depository institution as determined under sections 7(i) and 11(a).

2. In the case of any deposit in a branch of a foreign bank, the term, "insured deposit" means an insured deposit as defined in paragraph (1) of this subsection which-

- (A) is payable in the United States to-
- (i) an individual who is a citizen or resident of the United States,
 - (ii) a partnership, corporation, trust or other legally cognizable entity created under the laws of the United States or any State and having its principal place of business within the United States or any State, or
 - (iii) an individual, partnership, corporation, trust, or other legally cognizable entity which is determined by the Board of Directors in accordance with its regulations to have such business or financial relationships in the United States as to make the insurance of such deposit consistent with the purposes of this chapter; and
- (B) meets any other criteria prescribed by the Board of Directors by regulation as necessary or appropriate in its judgment to carry out the purposes of this Act or to facilitate the administration thereof.

3. UNINSURED DEPOSITS. - The term "uninsured deposit" means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

4. PREFERRED DEPOSITS. - The term "preferred deposits" means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.

Coverage on pro rata or "pass-through" basis

See 12 U.S.C. 1821 (a)(1)(D) (**Verbatim**)

(i) IN GENERAL. - Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or "pass through" basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

(ii) EXCEPTION. - After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or "pass through" basis pursuant to clause (i)

with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

(iii) **COVERAGE UNDER CERTAIN CIRCUMSTANCES.**- Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted –

(I) the institution meets each applicable capital standard; and

(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or “pass-through” basis.

**International
Banking
Facility or IBF**

See 12 C.F.R. 204.8 (**Verbatim**)

(1) *International banking facility or IBF* means a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit.

**International
banking
facility time
deposit or IBF
time deposit**

See 12 C.F.R. 204.8 (**Verbatim**)

(2) *International banking facility time deposit or IBF time deposit* means a deposit, placement, borrowing or similar obligation represented by a promissory note, acknowledgment of advance, or similar instrument that is not issued in negotiable or bearer form, and

(i)(A) That must remain on deposit at the IBF at least overnight; and

(B) That is issued to

(1) Any office located outside the United States of another depository institution organized under the laws of the United States or of an Edge or Agreement Corporation;

(2) Any office located outside the United States of a foreign bank;

(3) A United States office or a non-United States office of the entity establishing the IBF;

(4) Another IBF; or

(5) A foreign national government, or an agency or instrumentality thereof ¹⁰, engaged principally in activities which are ordinarily performed in the United States by governmental entities; an international entity of which the United States is a member; or any other foreign international or supranational entity specifically designated by the Board ¹¹; or

(ii) (A) That is payable

(1) On a specified date not less than two business days after the date of deposit;

(2) Upon expiration of a specified period of time not less than two business days after the date of deposit; or

(3) Upon written notice that actually is required to be given by the depositor not less than two business days prior to the date of withdrawal;

(B) That represents funds deposited to the credit of a non-United States resident or a foreign branch, office, subsidiary, affiliate, or other foreign establishment (foreign affiliate) controlled by one or more domestic corporations provided that such funds are used only to support the operations outside the United States of the depositor or of its affiliates located outside the United States; and

(C) That is maintained under an agreement or arrangement under which no deposit or withdrawal of less than \$100,000 is permitted, except that a withdrawal of less than \$100,000 is permitted if such withdrawal closes an account.

¹⁰ Other than states, provinces, municipalities, or other regional or local governmental units or agencies or instrumentalities thereof.

¹¹ The designated entities are specified in 12 C.F.R. 204.125.

The numbering of the above footnotes was taken verbatim from 12 C.F.R. 204.8.

General Principles

When determining deposit insurance coverage many different rules and regulations come into effect. While the Claims Specialist will ultimately refer to the specific regulation for purposes of calculating coverage, there are basic principles that are common to all the

insurance regulations. These basic principles must be understood and applied correctly in order to arrive at the proper insurance determination. For purposes of this section we have combined the more common principles as outlined and found in 12 C.F.R. 330.3, 12 C.F.R. 330.4, and 12 C.F.R. 330.5. They are as follows:

1. Ownership rights and capacities (12 C.F.R. 330.3).

FDIC deposit insurance coverage is based on “ownership rights and capacities” (i.e., qualifying for coverage under separate insurance categories in accordance with the regulations). All deposits that are maintained in the same right and capacity are added together and insured in accordance with the regulations relating to deposit insurance of that particular deposit insurance ownership category.

FDIC deposit insurance is not determined on a per-account basis. You cannot increase deposit insurance by dividing funds owned in the same ownership category among different accounts. The type of account, whether checking, savings, certificate of deposit, or outstanding official item such as cashier’s checks, or other form of deposit, has no bearing on the amount of deposit insurance coverage. The use of Social Security numbers or tax identification numbers does not determine deposit insurance coverage. Switching the order of names on the account does not alter deposit insurance coverage.

The regulations specify the qualifying requirements for obtaining deposit insurance coverage in each insurance category. If the funds in an account do not meet the qualifying requirements set forth for separate coverage in a particular category, the funds may revert to another category (usually single ownership) before deposit insurance is calculated. However, if the qualifying requirements of a particular deposit insurance ownership category are met, the insurance coverage is calculated according to the rules governing that category. If there are funds that exceed the insurance limit in a particular category, those funds are uninsured. Uninsured funds cannot qualify for additional insurance under another category.

2. Deposits maintained in separate insured depository institutions or in separate branches of the same insured depository institution (12 C.F.R. 330.3).

Deposit accounts maintained in two separately chartered insured institutions are separately insured, even if the institutions are affiliated, such as by having a common holding company. Multiple deposits within the same institution (even if they are placed at separate branches) are aggregated under the applicable account ownership category.

Some financial institutions maintain Internet branches or divisions that allow depositors to open and transact business on accounts over the Internet. Usually these "virtual branches" have a different name than the "brick and mortar" bank but are not separately chartered. Deposits at these virtual branches or divisions are aggregated with any deposits the customer may have at the "brick and mortar" part of the bank.

3. Deposits maintained by foreigners and deposits denominated in foreign currency (12 C.F.R. 330.3).

Any person or entity can have FDIC insurance on a deposit. A depositor does not have to be a United States citizen, or even a resident of the United States.

FDIC deposit insurance for any deposit denominated in foreign currency is to be paid in U.S. dollars equivalent in value to the amount of the deposit denominated in foreign currency. If an institution fails, the value of the deposit will be determined using the rate of exchange "noon rates" for U.S. dollars as of the date the institution is closed.

4. Deposits in insured branches of foreign banks (12 C.F.R. 330.3).

Deposits in an insured branch of a foreign bank which are payable by contract (e.g., signature card, certificate of deposit, opening account application), are entitled to FDIC deposit insurance coverage. Deposits held by a depositor in the same right and capacity in more than one insured branch of the same foreign bank are aggregated together when determining the amount of deposit insurance coverage.

5. Deposits payable solely outside of the United States and certain other locations (12 C.F.R. 330.3).

Obligations of an insured depository institution which are payable solely outside of the U.S. are not deposits for insurance purposes. Deposit insurance coverage is provided only for deposits that are payable at a location within the U.S., including Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa and the Trust Territory of the Pacific Islands.

If there is a branch of a U.S. federally insured bank located in a foreign country, and funds can be withdrawn from either inside that country or the U.S., those funds are covered by FDIC deposit insurance.

6. International banking facility deposits and bank investment contracts (12 C.F.R. 330.3).

An "international banking facility (IBF) time deposit," as defined by the Board of Governors of the Federal Reserve System in Regulation D, or in any successor regulation, is not considered an insured deposit. Likewise, bank investment contracts are not considered an insured deposit.

7. Application of state or local law to deposit insurance determinations (12 C.F.R. 330.3).

Deposit insurance is for the benefit of the owner or owners of the funds on deposit. However, while ownership under state law of deposited funds is a necessary condition for deposit insurance, ownership under state law is not sufficient for, or decisive in, determining deposit insurance coverage. For example, in order for funds held in the name of a partnership to be insured separately from the personal funds of the partners, the partnership must be a legitimate partnership under state law.

Deposit insurance coverage is also a function of the deposit account records of the insured depository institution and of the provisions of this part (12 C.F.R. 330.3), which, in the interest of uniform national rules for deposit insurance coverage, are controlling for purposes of determining deposit insurance coverage.

Whenever reference to state law is necessary, the question arises as to which state's law should govern. Generally, the substantive law of the state in which the insured institution is located or the law of the state which would be applied under conflict of law principles should be followed. Whenever a question of state law arises under a trust agreement, contract, or other agreement which contains a reasonable choice of law provisions, the law of the state specified in the agreement should be followed to make the insurance determination.

8. Determination of the amount of a deposit (12 C.F.R. 330.3).

As a general rule, the insurance regulations provide that the amount of a deposit is the balance of principal and interest unconditionally credited to the deposit account as of the date of default of the insured depository institution, plus the ascertainable amount of interest to that date, accrued at the contract rate (or the anticipated or announced interest or dividend rate), which the insured depository institution in default would have paid if the deposit had matured on that date and the insured depository institution had not failed. In the absence of a stated interest or dividend rate, the rate for this purpose shall be whatever rate was paid in the immediately preceding payment period.

(a) Interest or dividend checks issued by a financial institution.

These types of checks are commonly referred to as official items. An account holder may request the financial institution pay them their earned interest on a periodic basis (e.g., monthly or quarterly). The method used by most financial institutions in paying this interest involves the issuance of an interest check (also referred to as dividend checks). When a financial institution fails, any dividend or interest check which has not cleared (i.e., has not been paid by the failed institution as of the date of failure) is added back to any other account the depositor may have under the same ownership rights. Whether an interest or dividend check is outstanding (i.e., final payment has not occurred) as of the date of failure is determined with reference to the law of the state in which the principal office of the insured institution is located. In general, most states have enacted the Uniform Commercial Code (U.C.C), which sets forth when final payment of a check occurs. The UCC states that, "in determining whether a check in the process of collection constitutes final payment for purposes of debiting an account, Articles 3 and 4 of the U.C.C. provides that final payment occurs when the item (i.e., the check) either (1) is paid in cash; (2) is settled without the right of revocation; or (3) is provisionally settled but not timely revoked" (U.C.C. 4-213(l)). If an interest or dividend check in the process of collection fails to meet any of these requirements, it is to be considered part of the account for insurance purposes.

(b) Cashier's checks.

These type of checks are referred to as official items and are included in the definition of a deposit. Ownership is determined by the holder of the check, which in most cases is the payee. If the payor (the person who bought the cashier's

check) is still the holder of the check, it is insured to the payor and is added to any account the payor may have had at the defaulted institution.

(c) **Discounted certificates of deposit.**

Discounted certificates of deposit are often referred to as zero coupon CDs and are sold for less than their face value (purchase price). The difference between the purchase price and the face value represents the earnings, or interest, to be paid on the account. The deposit amount is the original purchase price plus accrued earnings up to the date of calculation (the accreted value). The regulations specify that accrued earnings are calculated using whatever interest rate is necessary with annual compounding to increase the original purchase price to the face value at maturity over the life of the CD.

(d) **Waiver of minimum requirements.**

In the case of an account where there are restrictions on the withdrawal of funds from the account, e.g., a time deposit whose maturity date has not occurred, the insurance regulations specifically provide that interest shall be “computed according to the terms of the deposit contract as if interest had been credited and as if the deposit could have been withdrawn on such date without any penalty or reduction in the rate of earnings.” Fixed payment dates, fixed or minimum terms, and unexpired qualifying or notice period will not be taken into account when calculating the amount of deposit insurance coverage.

(e) **Aggregation of deposits.**

For purpose of determining the net amount due to any depositor, the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor.

9. Continuation of insurance coverage following the death of a deposit owner (12 C.F.R. 330.3).

The death of a deposit owner shall not affect the insurance coverage of the deposit for a period of six (6) months following the owner’s death, unless the account is restructured. During this “grace period,” the FDIC will insure the deceased person’s accounts as if he or she were still alive for six (6) months after his or her death. The FDIC will not apply the grace period if the result would be a reduction in coverage. Even though it is not necessary to seek affirmative proof that all parties on an account are still

living before making an insurance determination, if an account holder's death comes to the attention of the Claims Specialist, the resulting effect on insurance coverage should be analyzed.

10. Continuation of separate deposit insurance after merger of insured depository institutions (12 C.F.R. 330.4).

When the deposits of one insured financial institution are acquired, whether by merger, consolidation, other statutory assumption or contract, the newly acquired deposits are separately insured from any other funds a depositor may already have at the acquiring institution for a period of six (6) months (commonly referred to as a "grace period").

Non-time deposits (e.g., checking or savings accounts) acquired by an insured bank are separately insured for six (6) months after the date of merger.

Time-deposits (e.g., certificates of deposit) acquired by an insured bank are separately insured until the earliest maturity date or six (6) months after the merger date, whichever occurs later. Such certificates of deposit that mature during the six (6) month period and are renewed for the same term and in the same dollar amount (whether with or without accrued interest) will continue to be separately insured until the first maturity date after the six (6) month period.

Certificates of deposit that mature during the six (6) month period and are renewed on any other basis, or not renewed on any other basis, or not renewed and become regular savings or demand deposits, will be separately insured only until the end of the six (6) month period.

11. Recognition of deposit ownership and fiduciary relationships (12 C.F.R. 330.5).

The insurance regulations give general guidance as to the use of account records to determine deposit ownership and the use of FDIC discretionary ability to consider additional evidence. In addition, the regulation dealing with each ownership category may provide more specific rules relating to the use of account records.

(a) Recognition of deposit ownership.

FDIC presumes that deposited funds are owned in the manner indicated on the deposit account records of the insured depository institution. The FDIC uses the account records of the insured depository institution to determine the identity of the account holder and the type of account ownership. If the account records are clear and unambiguous, those records shall be considered binding on

the depositor. However, if account records are ambiguous or unclear as to the manner in which the funds are owned, the FDIC may choose to consider additional evidence for the purpose of establishing ownership right and capacity. The insurance regulations give the FDIC sole discretion to determine whether the account records are clear. If the FDIC determines the account records to be unclear or ambiguous, the FDIC may consider additional ownership evidence in determining the ownership of the account. This discretionary ability to consider additional evidence is intended to be used as a means to clarify, verify, and confirm the appropriate ownership. The final determination of ownership should still be consistent with at least some account records (e.g., the determination should not be completely contrary to all of the account records).

Conversely, if FDIC has reason to believe that actual ownership is misrepresented so as to increase the amount of deposit insurance, all available evidence may be considered and the determination made on the basis of actual, rather than misrepresented, ownership. This is only employed when a determination of the insured amount based on the misrepresented ownership would be greater than the insured amount of a determination based on actual ownership.

(b) Recognition of deposit ownership in custodial accounts.

In the case of custodial deposit accounts, the interest of each beneficial owner may be determined on a fractional or percentage basis. This may be accomplished in any manner which indicates that where the funds of an owner are commingled with other funds held in a custodial capacity and a portion thereof is placed on deposit in one or more insured depository institution and represents at any given time the same fractional share as his or her share of the total commingled funds.

Simply put, if an agent has commingled funds of multiple owners, and the agent then deposits some but not all of these commingled funds into an FDIC-insured institution, the FDIC will determine each owner's fractional share of the deposit by looking to the owner's fractional share of the total commingled funds. For example, imagine that the agent holds \$500,000 of commingled funds on behalf of multiple owners. One of these owners is J. Smith, whose interest in the commingled funds is \$50,000 or 10%. If the agent places \$70,000 of the commingled funds on deposit at a particular bank, the FDIC will assume that the share of this deposit owned by J. Smith is \$7,000 or 10%.

(c) **Fiduciary Relationship.**

An account may be insured to a person other than the named account holder only if the account records of the insured institution expressly disclose, by way of specific references, the existence of the fiduciary relationship. These relationships include, but are not limited to, relationships involving a trustee, agent, nominee, guardian, executor or custodian. The express indication that the account is held in a fiduciary capacity will not be necessary, however, in instances where the FDIC determines, in its sole discretion, that the titling of the deposit account and the underlying deposit account records sufficiently indicate the existence of a fiduciary relationship. The exception may apply, for example, where the deposit account title or records indicate that the account is held by an escrow agent, title company or a company whose business is to hold deposits and securities for others.

Examples of account titles that do not disclose a relationship include the use of the word "fund" or in care of ("c/o") another. The term "fund" by itself is not considered adequate disclosure of a relationship because it may simply refer to a corporation, an unincorporated association or money put aside by a person for a specified purpose, but not held in trust. The designation "c/o" in the account title fails to disclose a relationship because it is most commonly used as a mailing address.

If the deposit account records of an insured depository institution disclose the existence of a relationship which might provide a basis for additional insurance the details of the relationship and the interests of other parties in the account must be ascertainable either from the deposit account records of the insured depository institution or from records maintained, in good faith and in the regular course of business, by the depositor or by some person or entity that has undertaken to maintain such records for the depositor.

(i) **Multi-tiered fiduciary relationships.**

In deposit accounts where there are multiple levels of fiduciary relationships, there are two methods of satisfying the requirements of this section to obtain insurance coverage for the interests of the true beneficial owners of a deposit account. The first method involves complete disclosure of the existence of each relationship in the chain in the account records of the insured institution. The ownership details (names and interests) are disclosed at each level and the person on whose

behalf the party at the level is acting. The second method is to disclose generally in the account records that the first level fiduciary is acting on behalf of others who may in turn be acting as fiduciaries for still others. The existence of additional levels can be disclosed on the business records of parties at subsequent levels. The ownership details (names and interests) can be disclosed at each level and the person on whose behalf the party at the level is acting.

No person or entity in the chain of parties will be permitted to claim that they are acting in a fiduciary capacity for others unless the possible existence of such a relationship is revealed at some previous level in the chain.

(ii) **Exceptions for negotiable instruments and items forwarded for collection by depository institution acting as agent.**

The insurance regulations list various negotiable instruments that will be insured to the owner, despite the absence of ownership disclosure in the institution's records, as long as the instrument was in fact negotiated prior to the date of default. Affirmative proof must be offered to substantiate the claim. In addition, when another insured depository institution is acting solely as agent and has forwarded items for collection to the defaulted institution, the holders of such items will be recognized to the same extent as if their name(s) and interest(s) were disclosed on the deposit account records. These claims must be established by the execution and delivery of prescribed forms.

Examples of Insurance Coverage

Example 1: Scenario

Fully Insured Deposits in an insured branch of a foreign bank.

Situation

The failed institution, The Bank of Foreign Land, has a branch in New York City. The bank is headquartered in Foreign Land. One of the deposit accounts in the New York City branch is titled "Joe Smith" and has a balance of \$99,000.

Analysis/Determination

After reviewing information found at www.fdic.gov relating to financial institutions and at www.ffiec.gov/nic/ and consulting with Legal, the Claims Specialist determines that the deposits in the New York City branch are eligible for deposit insurance. The Claims Specialist then applies the insurance regulations applicable to the single ownership category (covered under 12 C.F.R. 330.6). The account is fully insured.

Example 2: Scenario

Uninsured International banking facility deposit.

Situation

The failed institution has an account titled "National Caribbean Bank". The balance in the account is \$350,000.

Analysis/Determination

The Claims Specialist reviews the records of the failed institution and after consultation with the Legal Division verifies that the account in the name of the "National Caribbean Bank" is considered an IBF deposit. Therefore, the account is not considered a deposit for insurance purposes. It is treated as a creditor claim and a Receivership Certificate in the amount of \$350,000 is issued to the "National Caribbean Bank." For details concerning processing of creditor claims, refer to the Claims Manual, Volume I, Section V, Chapter A: Creditor Claims.

Example 3: Scenario

Partially Insured Official check.

Situation

At the time of financial institution failure, Jane Doe has a CD for \$100,000 and an interest check issued in her name in the amount of \$358.

Analysis/Determination

During the interview process with Jane Doe, utilizing the Depositor Interview form, the Claims Specialist determines that the interest check is outstanding and adds the \$358 interest check to the \$100,000 balance of the CD. He then applies the insurance regulations applicable to the single ownership category (12 C.F.R. 330.6) and

determines that Jane Doe is insured for \$100,000 and uninsured for \$358. A Receivership Certificate is issued for the uninsured amount of \$358.

Example 4: Scenario

Fully Insured Death of a depositor.

Situation

There is a CD titled "John Brown ITF for Jane Brown" for \$85,000 in the failed institution. He also has another CD titled "John Brown" for \$75,000.

Analysis/Determination

The Claims Specialist attempts to contact John Brown. However, the Claims Specialist is only able to speak with Jane Brown, John's wife and the Executor of his estate, who advises the Claims Specialist that John Brown died three months before the institution failed. Jane provides a copy of John's death certificate and a copy of the appointment of Jane as executor of John's estate. With this information, the Claims Specialist is able to confirm that John Brown died within the 6 month period immediately prior to the institution's failure. At the Claims Specialist's request, Jane also completes a Declaration for Testamentary Trust form, as executor of John's estate, which confirms that Jane is a qualified beneficiary of the ITF account. The Claims Specialist then applies the grace period (12 C.F.R. 330.3) and insures John's accounts as if he were still alive. Therefore, it is determined that the revocable trust account for \$85,000 is fully insured under the revocable trust category (12 C.F.R. 330.10) as Jane is a qualifying beneficiary and John's other account of \$75,000 is found to be fully insured under the single ownership category (12 C.F.R. 330.6).

Example 5: Scenario

Fully Insured Merger of insured depository financial institutions.

Situation

Bill Bon has a checking account for \$99,000 at the Long Branch Bank. He also has a checking account for \$10,250 at the Gold Bank. The Long Branch Bank merges with the Gold Bank and one (1) month later the financial institution (Gold Bank) fails.

Analysis/Determination

The Claims Specialist confirms, after consultation with Legal and DRR Franchise Marketing staff, that the merger took place one (1) month before Gold Bank failed. This is within the six month grace period as specified in 12 C.F.R. 330.4. Therefore, the Claims Specialist reviews the two accounts as though they were in separate institutions. Since each account contains less than the limit of deposit insurance (\$100,000), each is fully insured under the single ownership category. (12 C.F.R. 330.6).

Chapter 5

Single Ownership Accounts

Contents

This chapter contains the following information on Single Ownership Accounts:

Topic Title	Page Number
<u>Overview</u>	<u>5-1</u>
<u>Policy Statement</u>	<u>5-1</u>
<u>Legal Reference</u>	<u>5-1</u>
<u>Definitions</u>	<u>5-2</u>
<u>Insurance Determination</u>	<u>5-3</u>
<u>Documentation</u>	<u>5-4</u>
<u>Examples of Insurance Coverage</u>	<u>5-5</u>
<u>Power of Attorney</u>	
<u>Declaration for Power of Attorney</u>	

Overview

The deposit insurance regulations provide separate deposit insurance coverage for certain single ownership accounts. Such accounts include those in the owner's name or those established by an individual for a business that is a sole proprietorship. Oftentimes, when an account fails to qualify for insurance coverage under another ownership category, it reverts to single ownership.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Single ownership accounts are insured according to the rules set forth in 12 C.F.R. 330.1, 12 C.F.R. 330.5, 12 C.F.R. 330.6 and 12 C.F.R. 330.7.

Definitions

Accounts of a decedent and accounts held by executors or administrators of a decedent's estate

Funds held in the name of a decedent or in the name of the executor, administrator, or other personal representative of his or her estate and deposited into one or more deposit accounts shall be treated as the individual account(s) of the named decedent.

Accounts that fail to qualify for insurance in other account ownership categories

Such accounts typically revert to single ownership accounts.

Convenience Account

An account the owner of which has given signatory authority to another person. However, the records of the financial institution must clearly indicate, by way of special reference, that the funds are owned by the person titled on the account, and the other signatory is only authorized to transact business on the owner's behalf.

Fiduciary accounts held for an individual

Generally, these are accounts held by a third party on behalf of an individual in a fiduciary capacity as agent, nominee, conservator, custodian, or guardian. This fiduciary capacity must have been disclosed in the institution's records. Examples of such accounts are brokered deposit accounts and Uniform Gifts to Minors Act accounts (UGMA). Refer to Chapter 6: Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator for additional information.

Individual accounts

Funds owned by a natural person (human being) and deposited in one or more deposit accounts in his or her own name. Exception: Despite this general requirement, if more than one natural person has the right to withdraw funds from an individual account (excluding persons who have the right to withdraw by virtue of a Power of Attorney, fiduciary capacity or other reasons), the account shall be treated as a joint ownership account unless the deposit account records clearly indicate, to the satisfaction of the FDIC, that the funds are owned by one individual and that other signatories on the account are merely authorized to withdraw funds on behalf of the owner.

Official items payable to one person

Bank checks, usually drawn on the failed financial institution and made payable to one person, that are outstanding (and not negotiated, except for collection) when the financial institution is closed. Examples include cashier's checks, teller checks, loan disbursement checks, interest or dividend checks, expense reimbursement checks, and money orders.

Single-name accounts containing community property funds

Community property funds deposited into one or more deposit accounts in the name of one member of a husband-wife community shall be treated as the individual account(s) of the named member.

Sole proprietorship accounts

Funds owned by an unincorporated business which is a "sole proprietorship" (as defined in 12 C.F.R. 330.1(m)) and deposited in one or more deposit accounts in the name of the business shall be treated as the individual account(s) of the person who is the sole proprietor.

Uniform Gifts to Minors Act

Various states have laws that allow an adult to make an irrevocable gift to a minor. Funds given to a minor by this method are held in the name of a custodian for the minor's benefit. These are commonly referred to as "UGMA" accounts. See Chapter 6: Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator for additional information.

Insurance Determination

All funds held in single ownership capacity by any one natural person in the same institution are aggregated and insured up to the limit of deposit insurance (\$100,000). The following types of accounts need to be reviewed and balances added together when determining deposit insurance coverage in this category:

1. Individual accounts
2. Accounts held in the name of a business that is a sole proprietorship
3. Convenience accounts—insured as individual funds of the owner.
4. Accounts held in the name of a decedent, or by executors or administrators of a decedent estate—insured as the single ownership account of the decedent, not as funds owned by

- the executor, administrator, or other personal representative of the decedent.
5. Single name accounts containing community property funds.
 6. Accounts held on behalf of one or more individuals pursuant to a fiduciary relationship— insured as individual funds of the owner (i.e., UGMA account).
 7. Official items payable to one person (i.e., interest checks, cashier's checks).
 8. Accounts that fail to qualify for insurance in other account ownership categories.

The only signature on the above accounts should be the owner of the funds, except for:

- Accounts with a Power of Attorney.
- Convenience accounts.
- Fiduciary accounts.
- Sole proprietorship accounts. It is possible that the account(s) may contain more than one signature but the funds are owned by the business owner. If there are two or more signatures and it is determined that the funds are equally owned by more than one owner ("mom & pop" businesses), then the account should be insured as a joint account.
- Accounts of a decedent.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature cards and/or certificates of deposits, passbooks, or other account records.
2. Depositor records such as death certificates, estate documents, or court documents such as the appointment of administrator.
3. Documentation evidencing a fiduciary relationship as described in 12 C.F.R. 330.5 and Chapter 6: Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator. Those relationships may include brokered deposits, UGMA accounts, or other custodial accounts.
4. Power of Attorney form (Power of Attorney). This form may be used if the depositor has not previously executed a Power of Attorney (POA). A POA must be obtained by the Claims Specialist before discussing the account with anyone other than the owner. The POA should indicate the person with whom the Claims Specialist may discuss the account.
5. Declaration of Power of Attorney form (Declaration for Power of Attorney). This form should be obtained when a previously

executed POA has been provided. The signor of this document is attesting that the Power of Attorney appointing him as attorney-in-fact has not been revoked or terminated by the depositor.

6. Copy of the RLS uninsured depositor analysis form.
7. Copy of the RLS final grouping report for the group.

Examples of Insurance Coverage

Example 1: Scenario

Partially Insured

Account in the name of the executor of an estate.

Situation

At the failed institution there is an account titled "Elisha Smith as executor of the estate of Anita Smith". There is \$600,000 in the account.

Analysis/Determination

The Claims Specialist contacts Elisa Smith who advises that the funds were those of her Aunt Anita. The beneficiaries of Aunt Anita's estate are Anita's six children. The Claims Specialist advises Elisa that the funds are insured under the single ownership category as funds of the deceased. Therefore, the account is insured for \$100,000 and a Receivership Certificate is issued for the uninsured amount of \$500,000.

Example 2: Scenario

Fully Insured

Single ownership account and an UGMA account.

Situation

At the failed financial institution, there are two accounts. One is titled "Trisha Down, Custodian under UGMA for Beth Down, Minor" with a balance of \$10,000. The second account is titled "Trisha Down" for \$100,000.

Analysis/Determination

The Claims Specialist realizes that the first account is insured as the single ownership account of Beth Down. As Beth Down has no other single ownership accounts, it is fully insured for \$10,000. The account titled "Trisha Down" is also fully insured as a single ownership account of Trisha Down for \$100,000, as Trisha Down has no other accounts at the failed institution.

Example 3:**Scenario****Partially Insured**

Single ownership account and a deposit placed by a broker.

Situation

Conor Mckee has an account at the failed institution of \$100,000. In addition, there is an account titled "Smith Brokerage as Agent for others" totaling \$10,000,000.

Analysis/Determination

The Claims Specialist determines that the account of Conor Mckee is fully insured in the single ownership category for \$100,000. While the Claims Specialist is dealing with Smith Brokerage concerning its account and after obtaining the appropriate documentation (see Chapter 6: Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator), it is discovered that funds placed by Smith Brokerage include \$99,000 of Conor Mckee's money, as Conor Mckee had placed the money with Smith Brokerage and, unbeknownst to all, the brokered deposit was placed in the same institution in which Conor had a direct deposit relationship. As that \$99,000 must be aggregated with other single ownership funds of Conor Mckee, and as the limit of deposit insurance has already been paid for Conor's direct deposit, the \$99,000 is uninsured and a Receivership Certificate is issued for that amount.

Example 4:**Scenario****Partially Insured**

An account and an official item.

Situation

At the failed institution, there is an account titled "Dan Jones" in an amount of \$80,000. There is also a cashier's check outstanding titled "Dan Jones" for \$50,000.

Analysis/Determination

In his interview with Dan Jones, the Claims Specialist is able to confirm that both of the accounts belong to the same Dan Jones. Mr. Jones had obtained the cashier's check in order to open an account at a nearby credit union, but had not done so by the time the institution failed. The amounts are aggregated as single ownership funds of Dan Jones. \$100,000 is insured and a Receivership Certificate is issued for the uninsured amount of \$30,000.

Example 5:**Scenario****Partially Insured**

Two accounts, one of which reverts to the single ownership category.

Situation

At the failed institution, there is an account entitled "Rita Johnson POD Mary Johnson" for \$50,000. There is a second account titled "Rita Johnson" for \$67,000.

Analysis/Determination

The Claims Specialist meets with Rita Johnson and has Rita execute a Declaration for Testamentary Deposit (Single Grantor) form for the POD account. From that form, the Claims Specialist is able to determine that the beneficiary, Mary Johnson, is Rita's cousin. Since a cousin is not a qualifying beneficiary under the revocable trust category of ownership, the funds in that account revert to the single ownership category of Rita. (See Chapter 9: Revocable Trust Accounts for details). Therefore, the funds in the POD account are aggregated with Rita's other account, bringing the total of funds to be reviewed for insurance under Rita's single ownership category to \$117,000. Rita is insured for \$100,000 and a Receivership Certificate is issued for the uninsured amount of \$17,000.

Chapter 6

Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator

Contents

This chapter contains the following information on Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator:

Topic Title	Page Number
<u>Overview</u>	<u>6-1</u>
<u>Policy Statement</u>	<u>6-2</u>
<u>Legal Reference</u>	<u>6-2</u>
<u>Definitions</u>	<u>6-2</u>
<u>Insurance Determination</u>	<u>6-3</u>
<u>Documentation</u>	<u>6-6</u>
<u>Examples of Insurance Coverage</u>	<u>6-7</u>

Overview

12 C.F.R. 330.7 discusses insurance coverage for accounts held by an agent, nominee, guardian, custodian, or conservator. The general rule for such accounts is that funds in such accounts are insured as though they are the funds of the principal or owner of the account rather than funds of the agent, nominee, guardian, custodian, or conservator. Such funds are aggregated with other funds of the same principal or owner (whether deposited directly by that principal or owner or deposited by an agent, nominee, custodian, or conservator on behalf of the same principal or owner) in the same right and capacity and are insured up to the limit of deposit insurance (\$100,000). The concept of insurance for funds thus held is sometimes referred to as "pass through" insurance since the insurance coverage is for the principal or owner and not for the party who "holds" the funds.

12 C.F.R. 330.7 (e) provides an exception to the general rule mentioned above. For accounts opened by the U.S. Department of the Interior on behalf of American Indians, the funds will be insured separately from any other accounts owned by the same individual American Indian in the single ownership category. Since 1996, accounts which fall within the purview of 12 C.F.R. 330.7(e) are most likely to be in the name of the Office of the Specialist Trustee for American Indians (Office of the Special Trustee), which is part of the U.S. Department of the Interior. Previously, the accounts were most likely to be in the name of the Bureau of Indian Affairs (BIA).

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Accounts held by an agent, nominee, guardian, custodian or conservator are provided pass through insurance in accordance with 12 C.F.R. 330.7.

Definitions

Agent

A person authorized by another person, called a principal, to act on the latter's behalf in transactions involving a third party. The following three characteristics typically apply to an agent:

- Acts on behalf of and is subject to the control of the principal;
- Does not have title to the principal's property;
- Owes the duty of obedience to the principal's orders.

BIA

Bureau of Indian Affairs (BIA). Until 1996, the bureau within the U.S. Department of Interior which was most likely to be the custodian of funds subject to deposit insurance under 12 C.F.R. 330.7(e).

Broker

A person who acts as an intermediary between a buyer and seller, usually charging a commission.

Brokered Deposit

Deposits placed by a deposit broker. The FDIC places special restrictions and regulations on financial institutions concerning the acceptance and insurance of these accounts.

Custodian

A person, bank, or financial institution that keeps custody of individual or corporate property.

Deposit Broker

Any person engaged in the business of placing deposits, or facilitating the placement of deposits of third parties with insured depository institutions; or the business of placing deposits with insured depository institutions to sell interests in those deposits to third parties.

Fiduciary

A person holding a position of trust or confidence recognized by law.

Guardian

A person legally designated to act on behalf of a minor or a person who is determined to be incapable of handling his or her own affairs.

Mortgagee

A mortgage holder.

Mortgage Servicing

Administration of a mortgage loan, including collecting monthly payments and penalties on late payments, tracking the amount of principal and interest paid at any particular time, acting as escrow agent for funds to cover taxes and insurance, and if necessary, curing defaults and foreclosing when a homeowner is seriously delinquent.

Mortgagor

One who mortgages one's property.

Nominee

A person or firm, such as a bank official or brokerage house, into whose name securities or other properties are transferred by agreement to facilitate transactions, although the customer remains the true owner.

Office of the Special Trustee for American Indians

An entity within the U.S. Department of the Interior which, since 1996, is the most likely custodian of funds which may be insured in accordance with 12 C.F.R. 300.7(e). Frequently referred to as Office of the Special Trustee.

Insurance Determination

Agency or Nominee Accounts

Funds (e.g. Brokered deposits) owned by a principal or principals and deposited into one or more deposit accounts in the name of an agent, nominee, guardian, or custodian, or conservator. The funds shall be insured to the same extent as if deposited in the name of the principal(s) or owners(s). These deposits will be added to all other (i.e., aggregated with) deposits of the principal or owner that are owned in the same right and capacity and insured up to the limit of deposit insurance (\$100,000). However, when such funds are deposited by an insured depository institution acting as trustee of an irrevocable trust, the insurance coverage shall be governed by the provisions of 12 C.F.R 330.12 (see Chapter 11: Accounts Held by Depository Institutions as Trustee of an Irrevocable Trust). Fiduciary accounts may involve multiple levels of fiduciary relationships.

In deposit accounts involving multiple levels of fiduciary relationships there are two options of satisfying the FDIC's disclosure rules in order to obtain insurance coverage for the interests of the true beneficial owners of the funds:

Option 1:

- A) Indicate on the deposit account records the existence of each and every level of the fiduciary relationship, and
- B) Identify, at each level, the name and interests of the entity on whose behalf the party at each level is acting.

Option 2:

- A) Indicate on the deposit account records that the depositor is acting in a fiduciary capacity on behalf of certain persons or entities who may, in turn, be acting in a fiduciary capacity for others; and
- B) Indicate the existence of additional levels of fiduciary relationships in records maintained in good faith and in the normal course of business by parties at subsequent levels; and
- C) Indicate at each of the levels the names and interests of the persons on whose behalf the party at that level is acting.
- D) No person or entity in the chain of parties will be permitted to claim that they are acting in a fiduciary capacity for others unless the possible existence of such a relationship is revealed at some previous level in the chain.

Failure to meet the disclosure requirements will result in the funds being insured as the funds of the fiduciary in either the single ownership or corporate ownership categories.

Guardian, Custodian or Conservator Accounts

Funds held by a guardian, custodian, or conservator for the benefit of his or her ward, or for the benefit of a minor under the Uniform Gifts to Minors Act (UGMA), and deposited into one or more accounts in the name of the guardian, custodian, or conservator, shall, for the purposes of this part, be deemed to be agency or nominee accounts.

Funds owned by a principal or principals and deposited into one or more deposit account in the name of an agent, nominee, guardian, or custodian, or conservator shall be insured to the same extent as if deposited in the name of the principal(s) or owners(s). These deposits will be added to all other deposits of the principal or owner that are owned in the same right and capacity and insured up to the limit of deposit insurance (\$100,000).

The Claims Specialist may require a guardian, custodian, or conservator to fill out and execute Declaration for Custodian Deposit in order to make a proper deposit insurance determination.

Accounts Held by Fiduciaries on Behalf of Two or More Persons

Funds held by an agent, nominee, guardian, custodian, conservator or loan servicer, on behalf of two or more persons jointly, shall be treated as a joint ownership account and shall be insured in accordance with the provisions of 12 C.F.R 330.9 (see Chapter 8: Joint Ownership Accounts).

Mortgage Servicing Accounts

- A) Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments by mortgagors of principal and interest, shall be insured for the interest of each mortgagee, investor, or security holder in such accounts.
- B) Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments by mortgagors of taxes and insurance premiums shall be added together and insured for the ownership interest of each mortgagor in such accounts.

Custodian Accounts for American Indians

In accordance with 12 C.F.R. 330.7(e), a custodial account in the name of the Office of Special Trustee for American Indians, or an agency with similar authority, containing funds for the benefit of individual American Indians. The interests of each American Indian in all accounts held by the Office of Special Trustee, or similarly authorized agency, are added together and insured up to the limit of deposit insurance (\$100,000). This coverage is separate from any insurance coverage the same American Indian may have as a result of funds he has placed directly at the same institution. To meet the requirements for deposit insurance under 12 C.F.R. 330.7(e), the following standards must be met:

- a) The account records must indicate that the funds are held by the disbursing agent in an agency capacity.
- b) The disbursing agent must hold the funds pursuant to 25 U.S.C. 162a or similar authority.
- c) The American Indian must have an ascertainable interest in the funds.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature cards, CD's, and/or other account records which expressly disclose that an account is being held by an agent, nominee, guardian, custodian, or conservator.
 2. Declaration for Custodian Deposit form.
 3. Affidavit of Agency Account form.
 4. Exhibit 6-1: Declaration for Agency Account – Office of Special Trustee form.
 5. Breakdown of accounts by owner and amount, for each agent, nominee, guardian, custodian, or conservator.
 6. Copy of the RLS uninsured depositor analysis form.
 7. Copy of the RLS final grouping report for the group.
-

Examples of Insurance Coverage

Example 1: Scenario

Partially Insured Deposit broker acting as agent.

Situation

The failed institution has an account titled "Broker, Inc. as Agent for Others" in the amount of \$3,000,000.

Analysis/Determination

The Claims Specialist notifies Broker, Inc. and requests that they submit to the FDIC their investor information as outlined in the Federal Deposit Brokers Processing Guide, which is located on our web page at <http://www.fdic.gov/deposit/deposits/brokers>. Broker, Inc. executes an Affidavit of Agency Account form and submits it to the Claims Specialist. When the information is received, the Claims Specialist determines that there are thirty participants (investors), each with a \$100,000 share of the one deposit account titled "Brokers, Inc. as Agent for Others". The investor information is then grouped and run against the entire deposit database of the failed bank. In addition to having \$100,000 invested with Broker, Inc., two of the investors each have \$100,000 on deposit, placed directly by them at the failed bank. Since both the brokered account and the account opened directly by the depositor are held in the same right and capacity, each is uninsured for \$100,000. Deposit insurance is afforded first to the account opened directly by the depositor, then to any subsequent brokered identified accounts. Therefore, for this account, \$2,800,000 is fully insured and Broker, Inc. as Agent for Others is issued a Receivership Certificate for \$200,000.

Note: Brokered deposits are not a separate insurance category, but rather are covered under 12 C.F.R. 330.7, which may provide pass through insurance (as discussed in this chapter). The interest of each principal/owner in a brokered account is aggregated with other accounts held in the same ownership right and capacity at the institution and insured up to the limit of deposit insurance.

Example 2: Scenario**Fully Insured**

Deposit of mortgage servicing company.

Situation

ABC Mortgage Servicing Corporation has an account with a balance of \$800,000.

Analysis/Determination

The grouping report reflects only one account in the name of ABC Mortgage Servicing Corporation. Since the signature card provides a contact person and a phone number, the card is pulled and ABC Mortgage Servicing Corporation is contacted and requested to provide a listing of the actual account investors. ABC Mortgage Servicing Corporation executes an Affidavit of Agency Account form and submits it to the Claims Specialist. It is determined that the account consists of principal and interest (P&I) payments which are owned by the investors. The P&I payments that are remitted by the mortgagors are periodically remitted by the mortgage servicer to the investor(s). Therefore, the mortgage servicer is acting in a custodial capacity for the investor (mortgagee), who is the owner of the account(s). 12 C.F.R. 330.7 allows for pass through insurance. Therefore, the insurance flows through to the actual investors of the account. For insurance purposes, the accounts are insured as the funds of the investors.

The listing retrieved from the mortgage servicer reflects eight separate investors or mortgagees with each investor's portion being \$100,000. None of the investors have any other accounts at the failed institution. Since each investor is insured to \$100,000, the deposit is fully insured.

Example 3: Scenario**Partially Insured**

Deposits of an American Indian Tribe.

Situation

The "American Indian Nation Tribe" has two accounts on deposit at the failed bank that total \$600,000.

Analysis/Determination

The grouping report reflects two accounts titled "The American Indian Nation Tribe". The Claims Specialist determines that the accounts were not deposited through the Office of Special Trustee. One account is a demand deposit account (non-interest bearing) and the other is an interest bearing account. The tribe is located in the same state as the

failed bank. The “American Indian Nation Tribe” accounts are not insured under the provisions of 12 C.F.R 330.7(e). The Claims Specialist refers to 12 C.F.R.330.15(a)(5) for insurance. 12 C.F. R 330.15 is discussed in Chapter 14: Public Unit Accounts. Under 12 C.F.R. 330.15(a)(5)(i), the demand deposit (non-interest bearing) is insured for \$100,000; under 12 C.F.R. 330.15(a)(5)(ii), and the interest bearing account is separately insured for \$100,000, regardless of the state in which the institution is located. Therefore, the deposits are insured for \$200,000, and a Receivership Certificate is issued for the uninsured amount of \$400,000.

Example 4:

Scenario

Fully Insured

Deposit in the name of “Office of the Special Trustee”.

Situation

The “Office of Special Trustee” has an account at the failed bank with a balance of \$5,000,000.

Analysis/Determination

The Claims Specialist contacts the Office of Special Trustee and has them complete and execute a “Exhibit 6-1: Declaration for Agency Account – Office of Special Trustee” form and supply a listing of American Indians whose funds the Office of Special Trustee has on deposit at the failed institution. The Claims Specialist reviews the documentation submitted. The funds on deposit are for the benefit of individual American Indians. The listing contains 645 names. No individual American Indian has an interest of more than \$100,000 of the \$5,000,000 total deposit. Therefore, the entire amount on deposit is insured per 12 C.F.R. 330.7(e).

Chapter 7

Annuity Contract Accounts

Contents

This chapter contains the following information on Annuity Contract Accounts:

Topic Title	Page Number
<u>Overview</u>	<u>7-1</u>
<u>Policy Statement</u>	<u>7-1</u>
<u>Legal Reference</u>	<u>7-1</u>
<u>Definitions</u>	<u>7-2</u>
<u>Insurance Determination</u>	<u>7-2</u>
<u>Documentation</u>	<u>7-3</u>
<u>Examples of Insurance Coverage</u>	<u>7-3</u>

Overview

The deposit insurance regulations provide separate deposit insurance coverage for certain annuity contract accounts.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Annuity contract accounts are insured according to the rules set forth in 12 C.F.R 330.5 and 12 C.F.R. 330.8.

Definitions

Annuity Contract Accounts

Funds held by an insurance company or other corporation in a deposit account for the sole purpose of funding life insurance or annuity contracts and any benefits incidental to such contracts.

Insurance Determination

Annuity contract accounts shall be insured as a separate category of deposit insurance in the amount up to the limit of deposit insurance per annuitant (\$100,000), provided that, pursuant to state statute:

- (1) The insurance company or corporation establishes a separate account for such funds;
- (2) The account cannot be charged with the liabilities arising out of any other business of the insurance company or corporation; and
- (3) The account cannot be invaded by other creditors of the insurance company or corporation in the event that the insurance company or corporation becomes insolvent and its assets are liquidated.

Such deposit insurance coverage shall be separate from the deposit insurance provided for any other accounts maintained by the corporation or the annuitants at the same insured depository institution.

A depository institution normally will not have any or current information or documentation to verify that requirements (1) through (3) have been met. Information and documentation normally will be requested from the insurance company.

Typically, an annuity account is established at an insured depository institution in the name of the insurance company or other corporation, and it will disclose that the account is held for the benefit of one or more annuitants or contract owners. The annuity account can be titled, for example, "American Insurance Co. Custodian for John Smith." or "American Insurance Co. Annuitants' Account". Such designations or similar language is sufficient to disclose the existence of an annuity relationship upon which the payment of deposit insurance could be based.

All annuity accounts for which a deposit insurance determination is being made under these provisions should be analyzed on a case by case basis and a legal opinion obtained to support the final deposit

insurance determination. This is necessary as a minor change in the facts as stated in the supporting documentation of two similarly structured accounts may result in major differences in the deposit insurance determination. If the account balance does not exceed \$100,000 and there are no known or suspected aggregation issues, documentation is not necessary.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature card(s), CD's, and/or other account records which expressly disclose that an account is an annuity in the name of an insurance company or other corporation and is being held for the benefit of one or more annuitants.
2. Corporation resolution(s) of the insurance company.
3. Copy of annuity contract.
4. Letter (sometimes referred to as a "letter of affirmation") from the insurance company, signed by a corporate officer, stating that the account meets the three statutory requirements outlined above and, in addition, a breakdown of the balance of the account by annuitant.
5. Copy of the RLS uninsured depositor analysis form.
6. Copy of the RLS final grouping report for the group.

Forward all the above documentation to Legal for review. Legal will determine whether the account qualifies for deposit insurance under the provisions of 12 C.F.R. 330.5 and 12 C.F.R. 330.8 as discussed in this chapter.

Examples of Insurance Coverage

Example 1: Scenario

Fully Insured Common annuitant/owner with multiple deposit accounts.

Situation

John Hancock Insurance Company set up an account at the failed financial institution titled "John Hancock Insurance Company for Bill Jones" for \$80,000. Bill Jones also has an account at the failed financial institution with a balance of \$50,000.

Analysis/Determination

The Claims Specialist reviews the signature card of the "John Hancock Insurance Company for Bill Jones" account and obtains the phone number and contact person for the insurance company. He places a call to the company representative and requests a letter of affirmation and a copy of the annuity contract. Upon receipt, he reviews the letter and annuity contract and refers the matter to Legal. Legal determines that the account met all the statutory requirements under 12 C.F.R. 330.8. Therefore, the "John Hancock Insurance Company for Bill Jones" account for \$80,000 is fully insured under the provisions of this chapter. Bill Jones' account of \$50,000 is fully insured as a single ownership account.

Example 2: Scenario

Fully Insured Deposit account of insurance company held for benefit of annuitants.

Situation

New York Life Insurance Company set up an account at the failed financial institution titled "New York Life Insurance Company as Custodian for". The balance in the account as of closing was \$800,000.

Analysis/Determination

The Claims Specialist contacts a representative from New York Life Insurance Company and requests a letter of affirmation and copy of the annuity contract. Subsequently, he receives the letter from New York Life with a breakdown of the balance of the account by annuitant. New York Life also provides a copy of the annuity contract. The Claims Specialist refers this to Legal. Legal's review states that the documentation revealed that the balance in the account was comprised of 16 annuitants, each having a balance of \$50,000, and the insurance company was in compliance with the 3 statutory requirements under 12 C.F.R. 330.8. As each annuitant had a balance under \$100,000, the account is fully insured.

Example 3: Scenario

Partially Insured Deposit account of insurance company held for benefit of annuitants.

Situation

Benbrook Insurance Company set up an account at the failed financial institution titled "Benbrook Insurance Company as Custodian" and the balance as of closing was \$1,200,000.

Analysis/Determination

The Claims Specialist contacts the insurance company and requests that a letter of affirmation be forwarded to him, together with a breakdown of the account by annuitant and a copy of the annuity contract. Upon receipt, the documentation is referred to Legal. The documentation shows that the balance in the account was for the benefit of 15 annuitants. Additionally, with the exception of one annuitant (who had \$150,000 for his benefit), all annuitants had interests under \$100,000. The letter of affirmation stated the company was in compliance with the 3 statutory requirements under 12 C.F.R. 330.8. As there was one annuitant that had an interest of \$150,000, the account is insured for \$1,150,000 and uninsured for \$50,000. A Receivership Certificate is issued to the insurance company for the \$50,000.

Example 4:

Scenario

Partially Insured

Deposit account of insurance company held for benefit of annuitants.

Situation

State Farm Insurance Company set up an account at the failed financial institution titled "State Farm Insurance Company as Custodian" and the balance as of closing was \$1,000,000.

Analysis/Determination

The Claims Specialist contacts the insurance company and requests that a letter of affirmation be forwarded to him, together with a breakdown of the account by annuitant and a copy of the annuity contract. Upon receipt, the Claims Specialist reviews the documentation and forwards it to Legal. The documentation indicates that the balance in this account was for the benefit of 50 annuitants, all of whom had interests under \$100,000. The letter of affirmation also revealed that the company failed to meet one of the three statutory requirements under 12 C.F.R. 330.8. As the account failed for insurance under the provisions of 12 C.F.R. 330.5 and 12 C.F.R. 330.8 as discussed in this chapter, it is insured to \$100,000 as a corporation (see [Chapter 10: Accounts of a Corporation, Partnership or Unincorporated Association](#)) and uninsured in the amount of \$900,000. A Receivership Certificate is issued to the insurance company for the uninsured amount of \$900,000.

Example 5: Scenario**Partially Insured**

Common annuitant/owner with multiple deposit accounts.

Situation

John Hancock Insurance Company set up an account at the financial institution titled "John Hancock Insurance Company ITF Bill Jones" for \$80,000. Bill Jones also has a demand deposit account at the same institution in the amount of \$50,000.

Analysis/Determination

An analysis of the records available at the financial institution revealed that the account titled "John Hancock Insurance Company ITF Bill Jones" did not represent an annuity and thus did not meet the statutory requirements under 12 C.F.R. 330.8. Rather, the funds were being held by the John Hancock Insurance Company as a true custodian and insured under 12 C.F.R. 330.7(a). (See Chapter 6: Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator.) Therefore, the funds in that account are aggregated with any other accounts held by Bill Jones in the single ownership category. Bill Jones' demand deposit account for \$50,000 is a single ownership account. Therefore, Bill Jones has \$130,000 in deposits to be reviewed for insurance under the single ownership category. \$100,000 is insured and \$30,000 is uninsured. A Receivership Certificate is issued to John Hancock for the uninsured amount of \$30,000.

Note: The reason that the Receivership Certificate is made out to John Hancock is that deposit insurance for the \$50,000 in the account of Bill Jones has already been paid. Therefore, the uninsured amount must be taken from the John Hancock account.

Chapter 8

Joint Ownership Accounts

Contents

This chapter contains the following information on Joint Ownership Accounts:

Topic Title	Page Number
Overview	8-1
Policy Statement	8-1
Legal Reference	8-2
Definitions	8-2
Insurance Determination	8-3
Documentation	8-7
Examples of Insurance Coverage	8-8

Overview

The deposit insurance regulations provide separate deposit insurance coverage for accounts held in the joint ownership capacity. Joint ownership accounts are owned by two or more natural persons. Each co-owner must have equal withdrawal rights, and in most cases, each must have personally signed a deposit account signature card. Each co-owner's interest in all joint accounts held at the same institution are added together and insured up to the limit of deposit insurance (\$100,000).

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Joint ownership accounts are insured in accordance with 12 C.F.R. 330.9.

Definitions

Joint Account

A deposit account co-owned by two or more natural persons.

Jointly Held Community Property

In states with community property laws, a jointly held account of a husband and wife is owned as community property. Upon the death of a spouse, one-half of the community property belongs to the surviving spouse and the other half belongs to the deceased spouse's estate.

Joint Tenants with Right of Survivorship

A joint tenancy with right of survivorship ("JTWROS") account allows each joint tenant ("owner") to withdraw funds from the account and upon the death of a joint tenant the account belongs to the surviving owner(s).

Natural Person

A human being.

Tenancy by the Entirety

A tenancy by the entirety is only possible when the joint owners are husband and wife. This type of joint account provides a right of survivorship. Upon the death of either spouse the funds belong to the surviving spouse.

Tenancy in Common

There is no right of survivorship in a tenancy in common account. Upon the death of one of the owners in the joint account, his or her interest in the account becomes a part of that tenant's estate rather than passing to the surviving owner(s).

Insurance Determination

Joint ownership accounts are insured separately if all of the following conditions are met:

- All co-owners are natural persons. Entities such as corporations, partnerships, and decedents' estates are not natural persons. Therefore, accounts owned by such an entity fails to qualify for insurance under the joint ownership category.
- Each co-owner possesses withdrawal rights on the same basis. If one co-owner can withdraw funds on his or her signature alone, but the other co-owner can withdraw funds only with the signatures of both co-owners, then this requirement has not been satisfied; the co-owners do not have withdrawal rights on the same basis.
- Each of the co-owners has personally signed a deposit account signature card for all joint accounts except certificates of deposit, deposit obligations evidenced by a negotiable instrument, or any account maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more natural persons. This limits the applicability of this requirement to passbook, checking, money market, and other non-certificate deposit accounts.

If the above criteria are met, and the records of the insured depository institution are clear and unambiguous as to the ownership of the accounts, the account(s) shall be deemed to be jointly owned. The interests of each individual in all joint accounts he or she owns at the same FDIC insured depository institution are added together and insured up to the limit of deposit insurance (\$100,000). If any of the conditions are not met, the account(s) fails to qualify for deposit insurance coverage in the joint ownership category and in most cases will revert to the single ownership category.

Special Issues

Death of a joint account owner

If an account is held in the names of two or more persons and one of the persons is deceased on the date of the closing of the financial institution, the account will generally be insured as a joint ownership account of the surviving joint owners, or if there is only one surviving owner, as the individual (single ownership) account of that owner.

Pursuant to 12 C.F.R. 330.3, General Principles, the insurance of joint accounts shall not be affected by the death of a joint account owner, if the death occurs within the period six months immediately prior to the closing of the institution. The operation of this grace period, however,

shall not result in a reduction of insurance coverage. Therefore, if one of the co-owners dies, the account shall be insured for six months as if the co-owner were still alive.

For example, Mary and John Smith have \$190,000 in a joint account, and John dies two weeks prior to the failure of the institution. The account is insured as if John was still alive, and \$190,000 is insured in the joint ownership category. However, if John had died seven months prior to the failure, the account is insured as Mary's single ownership account and aggregated with any other single ownership accounts of Mary.

When a joint account holder dies more than six months prior to the failure of the financial institution, further analysis is required to determine the insurance coverage. The joint account is reviewed to determine whether it provides for right of survivorship or no right of survivorship to surviving owners. Commonly used terms applicable to accounts with right of survivorship include joint tenants with right of survivorship ("JTWROS"), tenancy by the entirety, and jointly held community property. In each of these situations, the funds belong to the surviving owner(s). However, a decedent's interest in a tenancy in common account becomes part of the decedent's estate rather than passing to the surviving owner(s).

For example, if Mary and John Smith have \$190,000 in a joint account with right of survivorship (JTWROS) and John dies outside the grace period (more than six months), the entire account belongs to Mary in the single ownership capacity and is added to any other single ownership accounts of Mary. As a result, Mary is uninsured \$90,000 in the single ownership category.

If Mary and John Smith have \$190,000 in a joint account without right of survivorship (i.e., a tenancy in common) and John dies outside the grace period (more than six months), John's interest in the account becomes part of his estate upon death and is aggregated with any other accounts of his estate. In this scenario, \$95,000 is insured to the estate (single ownership category) and the remaining \$95,000 is aggregated with any other single ownership accounts of Mary.

Withdrawal Rights

Generally, each owner is deemed to have withdrawal rights on the same basis unless the records of the insured institution indicate otherwise. Note that the use of the word "or" or the word "and" to join the co-owners' names in a joint account title does not affect joint ownership qualification status, unless both terms are used in one account title so as to indicate unequal withdrawal rights. For example: "A and B or C". This might indicate that "A" and "B" must have both signatures to withdraw, but "C" can withdraw on his own. In such a scenario, the account would not qualify for insurance coverage in the joint ownership category since equal withdrawal rights do not exist. It

is very uncommon for the insured institution's records to indicate that each owner does not have equal withdrawal rights. Therefore, most of the accounts at a failed institution which are held in the names of two or more persons will meet the withdrawal rights requirement for joint ownership insurance coverage.

More recently, the trend for financial institutions is not to include any joint ownership indicators in the title of the account. Most often, the account is set up as follows:

John Smith
Mary Smith
123 Main Street
Any town, USA

The effect of different Social Security numbers in the determination of insurance

The use of Social Security numbers ("SSN") does not determine insurance coverage. The coverage does not increase by using one owner's SSN on one account and another owner's SSN on another account.

Non-qualifying joint accounts

Whenever an account held in the names of two or more persons (or entities) does not qualify for joint ownership insurance coverage, the Claims Specialist must determine the actual ownership interests in order to make an insurance determination. The Claims Specialist cannot assume that the interests of the named owners are equal, but instead must identify actual ownership. Though the interest of each named owner may be evident from the deposit account records, it is more likely that the Claims Specialist will need to have the owners prepare and sign a Declaration for Joint Ownership Deposit (Refer to Declaration for Joint Ownership Deposit).

Financial privacy of co-owners

Joint account determinations can involve situations requiring sensitivity to the financial privacy of all parties. When discussing uninsured funds relating to a group of accounts with more than one ownership combination, explain the situation to the co-owners and determine whether the parties wish to discuss all accounts as a group or separately by accounts with the named parties.

Steps to Determine Deposit Insurance

Step 1. Aggregate all accounts in which any one owner has an interest.

Account # 1	Mary Jones and John Jones	\$150,000
Account # 2	John Jones and Joseph Jones	<u>\$150,000</u>
		\$300,000

Since John is in both accounts, the two (2) accounts are aggregated.

Step 2. Determine each owner's interest in the joint accounts.

Assuming equal ownership, Mary owns 1/2 of Account # 1 or \$75,000. John owns 1/2 of both Account # 1 and Account # 2 or a total of \$150,000. Joseph owns 1/2 of Account # 2 or \$75,000.

Summary of Insurance Coverage

	<u>Total</u>	<u>Insured</u>	<u>Uninsured</u>
Mary	\$ 75,000	\$ 75,000	-0-
John	\$150,000	\$100,000	\$50,000
Joseph	<u>\$ 75,000</u>	<u>\$ 75,000</u>	-0-
Total	\$300,000	\$250,000	\$50,000

Step 3. Determine distribution of uninsured funds.

When uninsured funds result from applying Step 2 of the insurance determination to a group of accounts, the uninsured amount should be prorated among all the joint accounts involving the owner(s) with the uninsured interest. If the uninsured amount is not prorated a depositor who is not uninsured could be negatively affected. In this example, John is the only one uninsured, but if all the funds are taken out of the account with Mary, she would be disproportionately affected. John is insured for \$100,000 and uninsured for \$50,000. The uninsured amount should be prorated between the two accounts in which John has an interest based on his percent of ownership.

Determine the proper pro-ration for any one joint owner in two steps:

1. Divide the uninsured amount of that owner by that owner's total interest in the accounts, expressing the answer as a % (in the case of John that is \$50,000 /\$150,000, or 33.333%).
2. Multiply the owner's interest in each account by that percentage.

This step is outlined below:

Account	Account Balance	John's Interest	% of Uninsured (amount of uninsured divided by John's interest)	Pro-rated amount of Uninsured
1	\$150,000	\$75,000	33.333%	\$25,000
2	\$150,000	\$75,000	33.333%	\$25,000
Total	\$300,000	\$150,000	33.333%	\$50,000

In our example each account is debited for the uninsured amount as indicated above. Only John has a claim for the \$50,000 and the Receivership Certificate is issued to John.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature cards and/or certificate of deposit, passbook, or other account records of the financial institution including computer records.
2. Declaration for Joint Ownership Deposit (refer to Declaration for Joint Ownership Deposit). (To be used in non-qualifying joint accounts.)
3. Copy of the RLS final grouping report for the group.
4. Copy of the RLS uninsured depositor analysis form.
5. Copy of the RLS Joint Ownership Breakout (JOB) report.
6. Copy of the death certificate.
7. In instances where the ownership of an account is ambiguous, it may be necessary to obtain copies of documents that reflect who owns the funds. These may include:
 - a) Copies of tax returns reflecting who reports the payment of interest.
 - b) Copies of checks used to open accounts indicating the source of the funds.

Examples of Insurance Coverage

Example 1: Scenario**Fully Insured** Three co-owners.**Situation**

The failed institution has a certificate of deposit (CD) account titled John Smith, Mary Smith and Joseph Smith with a balance of \$270,000.

Analysis/Determination

The Claims Specialist reviews the CD, verifies there are three owners, with the assumption that all co-owners are alive on the date of the failure. John, Mary and Joseph are natural persons, each one is named on the CD, and each shares withdrawal rights on the same basis. Since the three conditions of insurance in the joint ownership category are satisfied, the account qualifies for insurance under the joint ownership category and each depositor is insured for \$90,000 in the joint ownership category.

Example 2: Scenario**Fully Insured** Truncated Grouping Report.**Situation**

The failed institution has a CD account titled John Smith and Mary Smith with a balance of \$270,000.

Analysis/Determination

The grouping report for this account show John Smith and Mary Smith as the owners of the account. However, upon meeting with the depositors, the Claims Specialist reviews the CD and determines that there are actually three names on the account, John Smith and Mary Smith and Joseph Smith (as shown on the CD). All co-owners are natural persons, are alive, and share withdrawal rights on the same basis. Since the conditions for insurance in the joint ownership category are satisfied, the account is a qualifying joint account and the account is insured for \$270,000.

Example 3: Scenario**Partially Insured**

One co-owner's interest in three accounts found to exceed insurance limit.

Situation

Bart, Mary and Dennis Walker have three joint ownership accounts at the failed financial institution. Two of the accounts are titled "Bart Walker or Mary Walker" in the amount of \$100,000 each and the third account is titled "Bart Walker or Dennis Walker" in the amount of \$40,000.

Analysis/Determination

The Claims Specialist determines that Bart and Mary own equal shares of the first two accounts for \$100,000 each and Bart and Dennis own equal shares of the third account for \$40,000. All co-owners were alive on the date the institution failed. After reviewing the accounts the Claims Specialist realizes there is a string (one co-owner's interest in all three accounts exceeds the insurance limit) and performs the "Joint Ownership Breakout" (JOB) in RLS. The Claims Specialist then reviews the JOB report and sees that Bart's interest in all three accounts totals \$120,000, Mary's interest in the two accounts totals \$100,000 and Dennis' interest totals \$20,000. As Bart's interests exceed the limit of insurance for this ownership category he is found to be insured for \$100,000 and uninsured for \$20,000. Both Mary and Dennis are fully insured as their respective interest is less than the insured limit. When aggregating the total insured and uninsured the accounts are insured for \$220,000 and uninsured for \$20,000. In calculating the amount of uninsured to be debited from each account the Claims Specialist makes the following calculations:

1. Divide \$20,000 by \$120,000 (amount of uninsured by Bart's total interest); the result is 16.667%.
2. Multiply 16.667% by Bart's interest in each account, \$50,000 for the 1st and 2nd and \$20,000 for the 3rd.
3. Result is \$8,333 debited from each of the 1st and 2nd accounts, and \$3,334 from the third account for a total of \$20,000.

Account	Account Balance	Bart's Interest	% of Uninsured (amount of uninsured divided by Bart's interest)	Pro-rated amount of Uninsured
1	\$100,000	\$ 50,000	16.667%	\$ 8,333
2	\$100,000	\$ 50,000	16.667%	\$ 8,333
3	\$ 40,000	\$ 20,000	16.667%	\$ 3,334
Total	\$240,000	\$120,000	16.667%	\$20,000

In this example each account is debited for the uninsured amount indicated above. Only Bart has a claim for the \$20,000 and the Receivership Certificate is issued to Bart.

Example 4:**Scenario****Fully Insured**

Death of a co-owner within the six month grace period.

Situation

John, Mary and Joseph Smith have one joint ownership account at the failed financial institution entitled "John Smith or Mary Smith or Joseph Smith" in the amount of \$270,000.

Analysis/Determination

The Claims Specialist receives a call from Mary Smith upon the institution's failure inquiring about the insurance on her accounts and advises him that John is her husband and Joseph is her son and John died two weeks before the institution failed. Since John died within six months prior to the institution's failure, the six-month grace period applies and the account is insured as if all owners were alive on the date of failure. The Claims Specialist determines that John, Mary and Joseph owned equal shares of the account, or \$90,000 each. Since the conditions for insurance in the joint ownership category were satisfied, the accounts are deemed fully insured.

Example 5: Scenario**Partially Insured**

Death of a co-owner outside of the six month grace period with account styled with right of survivorship.

Situation

The failed institution had one account titled "Barbara and Robert Mays, JTWROS" in the amount of \$190,000.

Analysis/Determination

Upon the institution's failure, Robert contacts the Claims Specialist about the account with his deceased wife Barbara. The Claims Specialist reviews the death certificate provided by Robert and determines that Barbara died eight months before the failure of the financial institution, but Robert did not have the account restyled. The Claims Specialist also discovers that Robert had a single ownership account in the amount of \$20,000.

Barbara and Robert owned equal shares of the account. Since Barbara died eight months prior to the institution's closing, no grace period can be afforded to the decedent (Barbara), and with the account structured as a JTWROS all funds are now Robert's and are covered under 12 C.F.R. 330.6 in the single ownership category (See [Chapter 5: Single Ownership Accounts](#)). These funds of \$190,000 are aggregated with Robert's other single ownership account of \$20,000 and insured to \$100,000 with a Receivership Certificate issued for the uninsured amount of \$110,000.

Example 6: Scenario**Partially Insured**

Death of a co-owner outside the six month grace period with account styled as tenants in common.

Situation

At the failed institution, Patricia and Mark Smith had an account in the amount of \$220,000 titled "Patricia Smith and Mark Smith, Tenants in Common".

Analysis/Determination

Upon the institution's failure, the Claims Specialist obtained the signature card and it was determined Mark and Patricia owned equal shares of the account. However, he also discovered that Mark died seven months before the institution failed, but the account was not restyled. Since the account was owned as "tenants in common", Mark's interest became part of his estate. As estates are not eligible

for insurance coverage under the joint ownership category, since a deceased person (Mark) is not considered a natural person, the account fails and both co-owners interests revert to coverage under 12 C.F.R. 330.6 in the single ownership category (See [Chapter 5: Single Ownership Accounts](#)). Neither Mark, his estate, nor Patricia had other accounts at the institution. Therefore, Patricia was insured in the single ownership category for \$100,000 and uninsured for \$10,000 with a Receivership Certificate issued to her and Mark's estate was insured in the single ownership category for \$100,000 and uninsured for \$10,000 with a Receivership Certificate issued to him.

Example 7:**Scenario****Partially Insured**

Account which fails under the joint ownership category.

Situation

The failed institution had a checking account titled "Smith Electronics, Inc. and John Smith", in the amount of \$190,000.

Analysis/Determination

Upon review of the grouping report the Claims Specialist recognizes that the account is purported to be a joint account, but one of the qualifications of a joint account is that the all owners must be natural persons. He contacts John Smith, as the Treasurer of Smith Electronics, Inc. and discovers that Mr. Smith was only named on the account as a signer and has no ownership interest in the account. Smith Electronics, Inc. is the sole owner of the account. Since all owners of a joint account must be natural persons and Smith Electronics, Inc. is a corporation, the account does not qualify for coverage under the joint ownership category. The account is insured as a business account under 12 C.F.R. 330.11 (See [Chapter 10: Accounts of a Corporation, Partnership or Unincorporated Association](#)) in the amount of \$100,000 with a Receivership Certificate issued for the amount of \$90,000.

Example 8:**Scenario****Partially Insured**

Account fails to have both co-owner signatures on the signature card.

Situation

Wayne and Mary Jones established a checking account at the failed institution titled "Wayne Jones and Mary Jones" in the amount of \$210,000.

Analysis and Determination

Upon review of the signature card for the account the Claims Specialist discovered that Mary did not sign the card. Both Wayne and Mary were alive on the date the institution failed. One of the requirements of joint checking accounts is that all owners must sign the signature card. The Claims Specialist had the owners prepare and sign a Declaration for Joint Ownership Deposit and determined that Wayne and Mary owned the funds equally. Since the account did not meet the conditions for coverage in the joint ownership category, the account was insured under 12 C.F.R 330.6 in the single ownership category (See Chapter 5: Single Ownership Accounts). It was also discovered that Mary and Wayne had single ownership accounts of \$50,000 each. Each owner's share of \$105,000 in the joint account was aggregated with their single ownership accounts of \$50,000 and each were found to be insured for \$100,000 and uninsured for \$55,000. Separate Receivership Certificates in the amount of \$55,000 were issued to Mary and Wayne.

Example 9:

Scenario

Fully
Insured

Non-equal withdrawal rights.

Situation

Prior to the institution's failure, James, Margaret and Michael Hines opened a checking account in the amount of \$240,000 at the institution.

Analysis/Determination

Upon the institution's failure, the Claims Specialist received a call from the Hines' regarding the insurance on their account. The Claims Specialist reviewed the signature card and noted that James and Margaret had equal withdrawal rights, but that Michael's withdrawal required either James or Margaret's signature in addition to his signature. James, Margaret and Michael were alive on the date the institution failed, and all had signed the signature card. However, since one of the requirements to qualify for insurance under the joint ownership category was not met (each co-owner must possess withdrawal rights on the same basis) the account failed for coverage in the joint ownership category and reverted to coverage under 12 C.F.R. 330.6 in the single ownership category (See Chapter 5: Single Ownership Accounts). The Claims Specialist had the owners prepare and sign a Declaration for Joint Ownership Deposit and determined that James, Margaret and Michael did equally own the funds. They had no other accounts so the deposits were insured in the single ownership category; the account was deemed fully insured for \$240,000.

Note: If James, Margaret and Michael had funds in single ownership accounts, these funds would have been aggregated with the funds from the joint account and insured up to the limit of deposit insurance (\$100,000) for each.

Chapter 9

Revocable Trust Accounts

Contents

This chapter contains the following information on Revocable Trust Accounts:

Topic Title	Page Number
<u>Overview</u>	9-1
<u>Policy Statement</u>	9-2
<u>Legal Reference</u>	9-2
<u>Definitions</u>	9-2
<u>Insurance Determination</u>	9-4
<u>General Guidelines for Reviewing Revocable Trust Agreements</u>	9-6
<u>Documentation</u>	9-6
<u>Examples of Insurance Coverage</u>	9-7

Overview

The deposit insurance regulations provide separate deposit insurance coverage for funds owned by one or more individuals and deposited into an account in which the owner(s)/grantor(s) evidence(s) an intention that upon the death of the owner(s)/grantor(s) the funds shall belong to one or more qualifying beneficiaries. Such accounts are called revocable trust accounts. Revocable trust accounts can be either formal or informal. Revocable trust accounts are insured up to the limit of deposit insurance (\$100,000) for each owner/qualifying beneficiary relationship. This deposit insurance is separate from deposit insurance provided to owners or beneficiaries of the account in either the single or joint ownership categories. Informal revocable trust accounts are sometimes known as tentative or "Totten" trust accounts, or "payable-on-death" (POD) accounts or "testamentary" trust accounts.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Revocable trust (Testamentary Accounts) accounts are insured in accordance with 12 C.F.R. 330.10.

Definitions

Formal Revocable Trust

Also known as “living” or “family” trusts, these trusts are governed by a formal trust document, usually drafted by an attorney. A living trust is one in which an owner creates and retains control over the funds during his lifetime.

Grace Period

To ensure that families dealing with the death of a family member have adequate time to review and, if necessary restructure their accounts, the FDIC will insure the deceased person’s accounts as if he or she were still alive for six months after his or her death. During this “grace period”, the insurance coverage of the deposit owner’s accounts will not change unless the accounts are restructured by those authorized to do so. The FDIC will not apply the grace period if the result would be a reduction in coverage. If an account is not restructured within six months after the owner’s death, the insurance shall be provided on the basis of actual ownership.

The grace period provided following the death of an account holder does not apply to the beneficiaries of an account. Immediately upon the death of a beneficiary, the insurance coverage of the account is reduced by \$100,000 per owner.

Informal Revocable Trust

Often called a “Totten” trust, “in trust for” (ITF) accounts, or “payable-on-death” (POD) accounts, these are governed solely by the terms of the signature card, certificate of deposit or other deposit contract between the owners and the insured financial institution.

Life Estate Interest

A trust interest in which the beneficiary is given the right to receive income from the trust or to use the trust assets during his lifetime.

Marriage

In determining the meaning of any act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word "marriage" means a legal union between one man and one woman as husband and wife.

Owners/Grantors/Trustors/Settlers

The creator of the trust, usually designed as the owner/grantor of the trust, is the person who funds the trust. This person may also be referred to as the "trustor," or settlor."

Qualifying Beneficiary

The owner's spouse, child, grandchild, parent, or sibling. Spouse refers only to a person of the opposite sex who is a husband or wife (Public Law 104-199). Child includes biological, adopted or stepchild of the owner. Grandchild includes biological, adopted or stepchild or any of the owner's children. Parent includes biological, adoptive, or stepparent of the owner. Brother includes full, half, stepbrother, or brother through adoption. Sister includes full, half, stepsister or sister through adoption. In-laws, cousins, nieces, nephews, domestic partners, friends, and charitable organizations are not qualifying beneficiaries.

Revocable Trust Account

Any account that evidences an intention that upon the death of the owner(s)/grantor(s) the funds will pass to one or more named beneficiaries. These accounts are insured separately from other ownership categories of the grantor as long as the beneficiary is a qualifying beneficiary.

Right of Survivorship

If a joint revocable trust account with a right of survivorship is held by two co-owners and one of them dies, all of the funds are then owned by the surviving account holder. As a result of the co-owner's death, the maximum insurance coverage of the account is reduced by \$100,000 for each qualifying beneficiary.

Trustee

The person designated to administer an agreement for the benefit of another. The grantor of the trust can also be the trustee of that same trust.

Insurance Determination

Revocable trust accounts are insured up to the limit of deposit insurance (\$100,000) for each grantor/qualifying beneficiary relationship. Revocable trust accounts (formal and informal) are insured separately from single ownership accounts and joint ownership accounts of the owner or the beneficiary. However, formal and informal revocable trust accounts are not insured separately from each other.

While the rules are different for informal revocable trust accounts and formal revocable trust accounts, the \$100,000 per qualifying beneficiary insurance limit applies to all revocable trust accounts that an owner has at the same institution. As an example, suppose a father has a POD account naming his son and daughter as beneficiaries and he has a living trust account naming the same beneficiaries. The funds in both accounts are aggregated and the total insured up to \$100,000 per owner/qualifying beneficiary relationship.

Informal Revocable Trusts

In order to qualify for insurance coverage under the revocable trust category, informal revocable trust accounts must meet all of the following requirements:

- The beneficiaries must be specifically identified by name in the deposit account records of the failed institution.
- The owner's intention that, upon his death, the funds shall belong to the named beneficiary must be shown in the title of the account using commonly accepted terms such as "in trust for," "as trustee for," or "payable-on-death." These terms may be abbreviated as "ITF," "ATF," or "POD."
- The named beneficiary must be a qualifying beneficiary. Subject to applicable state law, a depositor can name any person or any organization as the beneficiary of a revocable trust account. However, per-beneficiary insurance coverage is available only when the beneficiary is "qualifying."

If an informal revocable trust account has been created by more than one grantor, insurance will be determined as if each co-owner maintained a separate revocable trust account for each beneficiary. The grantors' interests are deemed to be equal unless otherwise

stated in the failed institution's deposit account records. If there are several qualifying beneficiaries, their interests are deemed equal unless otherwise specified in the failed institution's account records.

If an informal revocable trust account fails to meet the above requirements, the account reverts to a single ownership account of the grantor and is aggregated with any other single ownership account owned by the grantor and insured up to the limit of deposit insurance (\$100,000).

It is important to note that the special insurance coverage provided for informal revocable trusts depends, first of all, upon the proper titling of the trust accounts, and then, upon the listing of the trust's beneficiaries by name in the deposit records. It is not sufficient to only identify a class of beneficiaries such as "children." The beneficiaries must be listed by name.

Account(s) established by one grantor for the benefit of one or more beneficiaries are insured separately from any other accounts of the grantor as long as the beneficiary is a qualifying beneficiary.

If the same grantor establishes more than one account for the same qualifying beneficiary, the accounts are aggregated and are insured up to the limit of deposit insurance (\$100,000) for each owner/qualified beneficiary relationship.

Formal Revocable Trusts

The owner of a formal revocable trust account, sometimes referred to as "living" or "family" trust, is insured up to \$100,000 per beneficiary if all of the following requirements are met:

- The beneficiary must be a qualifying beneficiary.
- The qualifying beneficiary must become titled to his interest in the trust when the owner dies – deposit insurance is based on the beneficiaries who meet this requirement at the time the bank fails. For example, assume a living trust names an owner's three children as beneficiaries but states that each beneficiary's share will pass to the beneficiary's children if the beneficiary dies before the owner. Assuming all three children are alive at the time the bank fails, only the children -- not the grandchildren -- are beneficiaries for insurance purposes. (That's because the grandchildren are not titled to any trust assets while their parent is alive.) In this scenario, coverage up to \$300,000 (\$100,000 per beneficiary) is available for the trust's deposit accounts.

The account title at the bank must indicate that the account is held by a trust. This rule can be met by using "living trust", "family trust", or similar terms in the account title.

Formal revocable trusts often give a beneficiary the right to receive income from the trust or to use trust assets during the beneficiary's lifetime (known as a life estate interest). Issues concerning life estate interests and whether or not the principal of the trust can be invaded are complex. Generally, trusts which contain language relating to these topics should be referred to FDIC Legal for a legal opinion. Also, if an owner/grantor has died, it may be desirable to refer the documentation to FDIC Legal for a legal opinion.

If the revocable trust document and supporting deposit account records fail to satisfy any of the above requirements, funds deposited pursuant to the revocable trust are insured as the single ownership funds of the grantor(s).

General Guidelines for Reviewing Revocable Trust Agreements

While there is no requirement that the Claims Specialist obtain a legal opinion prior to making an insurance determination on accounts insured under the revocable trust category of ownership, he may choose to refer all of the documentation to the Legal Division for a legal opinion.

If the Claims Specialist requests a legal opinion, then he must provide a copy of the complete trust and the Declaration for Trust to the Legal Division. Legal will provide an opinion as to the beneficiaries of the trust, their interest(s) in the trust, and whether the beneficiaries are qualifying.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determinations for the revocable trust category of ownership may include the following:

1. Signature cards and/or other account records. If it is an informal revocable trust, the account title must include commonly accepted terms such as, but not limited to, "in trust for", "trustee for", "payable-on-death to", or any acronym therefore. In addition, the beneficiaries of the account must be specifically named. If it is a formal revocable trust, the signature card or account records must indicate that it is a trust; however, the names of the beneficiaries need not be included.
2. Declaration For Testamentary Deposit (Single Grantor). To be used with informal revocable trusts with only one grantor.

3. Declaration For Testamentary Deposit (Multiple Grantors). To be used with informal revocable trusts with more than one grantor.
4. Declaration for Trust. To be used with formal revocable trusts.
5. Copy of the RLS final grouping report for the group.
6. Copy of the RLS uninsured depositor analysis form.
7. A complete copy of the trust agreement if it is a formal revocable trust account.

Examples of Insurance Coverage

Example 1:

Scenario

Partially Insured

Informal revocable trust, multiple owners, single beneficiary.

Situation

The failed institution had an account titled “John Doe & Jane Doe in trust for Megan Doe” in the amount of \$300,000.

Analysis/Determination

The Claims Specialist obtains an executed Declaration For Testamentary Deposit (Multiple Grantors) form from the grantors (John and Jane Doe), which indicates that Megan is their granddaughter, a qualifying beneficiary. Further, the co-owners own the funds equally. Therefore, \$150,000 is attributed to John in trust for Megan, and \$150,000 is attributed to Jane in trust for Megan. Since no one grantor/qualifying beneficiary relationship can be insured for more than \$100,000, each grantor/qualifying beneficiary relationship is insured for \$100,000 and uninsured for \$50,000. Therefore, \$200,000 is deemed insured and a Receivership Certificate is issued for the uninsured portion of \$100,000.

Example 2:

Scenario

Fully Insured

Formal revocable trust with a life estate interest.

Situation

John and Mary Doe had one account titled, “John and Mary Doe, trustees of the John Doe Revocable Trust” in the amount of \$300,000 at the failed institution.

Analysis/Determination

The Claims Specialist obtains a complete copy of the trust agreement as well as a completed Declaration for Trust form from John and Mary Doe. After review of the documentation received, the Claims Specialist refers the documentation to the Legal Division for a legal opinion. After review of the documentation provided, the attorney advises that John is the sole grantor, the three beneficiaries are Mary, his wife, with a life estate interest; Claire his daughter; and Brigit, his granddaughter. John, Mary, Claire, and Brigit are all living. A beneficiary with a life estate interest is considered an equal beneficiary unless the trust document specifies otherwise, which in this case it doesn't. Since all three beneficiaries share equally and are qualifying, and the account title disclosed the trust intent, the account is deemed insured for \$100,000 per grantor/qualifying relationship, or \$300,000 in total. Therefore, the account is fully insured for \$300,000.

Example 3:**Scenario****Partially Insured**

Multiple informal revocable trusts with common owners and beneficiaries.

Situation

The failed institution had the following accounts - one titled "John and Mary Smith in trust for Nancy, Ken & Barb" in the amount of \$600,000 and another titled "Mary Smith in trust for Anna & Barb" in the amount of \$200,000.

Analysis/Determination

The Claims Specialist obtains a completed Declaration For Testamentary Deposit (Multiple Grantors) form from John and Mary Smith for the account titled "John and Mary Smith in trust for Nancy, Ken & Barb" (Trust #1). Mary Smith provides a completed Declaration For Testamentary Deposit (Single Grantor) form for the account titled "Mary Smith in trust for Anna & Barb" (Trust #2). In Trust #1, John and Mary list their beneficiaries as Nancy, Ken, and Barb. In Trust #2, Mary lists her beneficiaries as Anna and Barb. Nancy, Ken and Barb are all children of John and Mary. Anna is their granddaughter. Further, all beneficiaries are living. All beneficiaries are qualifying. The Claims Specialist determines the amount allocated to each grantor/beneficiary relationship based on the combination of both trusts is as follows:

Trust #	Grantor	Beneficiary	
1	John Smith	ITF Nancy	\$100,000
1	John Smith	ITF Ken	\$100,000
1	John Smith	ITF Barb	\$100,000
1	Mary Smith	ITF Nancy	\$100,000
1	Mary Smith	ITF Ken	\$100,000
1 & 2	Mary Smith	ITF Barb	\$200,000
2	Mary Smith	ITF Anna	\$100,000

When an account owner names the same qualifying beneficiary on multiple accounts at the same bank, the amounts placed in trust for that beneficiary in each account are added together, and the total insured to the limit of deposit insurance (\$100,000). Since Barb was named as a beneficiary on both accounts, the amounts attributable to Barb on each account are added together, and the total insured to \$100,000, leaving \$100,000 uninsured. Therefore, the accounts are insured for \$700,000 and a Receivership Certificate is issued for the uninsured amount of \$100,000.

Example 4:**Scenario****Fully Insured**

Informal revocable trust, multiple grantors, qualifying and non-qualifying beneficiaries.

Situation

Jack and Debbie have two accounts titled "Jack and Debbie ITF Johnny and Ann" with a balance of \$400,000 at the failed institution.

Analysis and Determination

The Claims Specialist has Jack and Debbie complete a Declaration For Testamentary Deposit (Multiple Grantors) form. The form indicates the funds are equally owned and in trust for Johnny, their son, and Ann, their daughter-in-law. Johnny and Ann are both living. The Claims Specialist allocates the funds as follows:

Grantor	Beneficiary	
Jack	ITF Johnny	\$100,000
Jack	ITF Ann	\$100,000
Debbie	ITF Johnny	\$100,000
Debbie	ITF Ann	\$100,000

The accounts are insured for \$200,000 in the Revocable Trust category for Jack and Debbie ITF their son. Since Ann is a non-qualifying beneficiary of Jack and Debbie, the funds allocated to her fail the test to be included in the Revocable Trust category; therefore, the ownership reverts to the single ownership category of Jack and

Debbie, respectively. Because Jack and Debbie do not have any other accounts in the single ownership category, they are insured for \$200,000 in the single ownership category. Therefore, the account is deemed fully insured.

Example 5:

Scenario

Partially Insured

One owner with both an informal and formal revocable trust.

Situation

The failed institution has two accounts for Mark Smith in the total amount of \$300,000 with one account titled "Mark Smith POD Julie and Mike", and another account titled "Mark Smith Revocable Living Trust Agreement".

Analysis/Determination

In a discussion with Mark Smith, the Claims Specialist discovers that the owner and beneficiaries are identical for the two accounts. Therefore, the Claims Specialist has Mark complete only the Declaration for Trust form. Mark also provides a complete copy of the trust. After reviewing, the Claims Specialist refers the documentation to the Legal Division for advice on the formal trust agreement. The Legal Division advises that there are two equal qualifying beneficiaries of the living trust, Julie and Mike, who are Mark's grandchildren. Since the beneficiaries are the same in each account (the POD account and the living trust account), the funds are added together and are allocated as follows:

Grantor	Beneficiary	
Mark	ITF Julie	\$150,000
Mark	ITF Mike	\$150,000

Since no one grantor/qualifying beneficiary relationship can be insured for more than \$100,000, the accounts are deemed insured for \$200,000 and a Receivership Certificate is issued for the uninsured amount of \$100,000.

Example 6:

Scenario

Partially Insured

Deceased beneficiary.

Situation

The failed institution has one account for Joseph Jones in the total amount of \$300,000, titled "Joseph Jones POD Joshua, Jamie and Jeremy."

Analysis/Determination

The Claims Specialist has Joseph Jones complete a Declaration For Testamentary Deposit (Single Grantor) form. Joseph indicates that there are three beneficiaries on the account - Joshua, Jamie and Jeremy, his children. However, he also indicates that Jeremy is deceased. While Jeremy passed away within the six month period immediately prior to the failure of the institution, the grace period afforded to the owner(s) of an account is not afforded to the beneficiary. The amounts allocated to each grantor/qualifying beneficiary relationship are \$150,000 for Joshua and \$150,000 for Jamie. Since no one grantor/qualifying beneficiary relationship can be insured for more than \$100,000, the account is deemed insured for \$200,000 and a Receivership Certificate is issued for the uninsured amount of \$100,000.

Example 7:

Scenario

Partially Insured

Two owners, one of whom is deceased, with right of survivorship.

Situation

The failed institution has one account titled "Maria and Dominic ITF Guido, Luigi, Salvatore, and Antonio" with a balance of \$800,000.

Analysis/Determination

At the request of the Claims Specialist, Maria executes a Declaration For Testamentary Deposit (Multiple Grantors) form. Upon review and discussion with Maria, the Claims Specialist learns that Dominic passed away one year prior to the failure of the bank. He also learns that Maria and Dominic owned the funds as joint tenants with right of survivorship. The beneficiaries are all sons of Maria and Dominic and, therefore, are qualifying beneficiaries of Maria. Since it is beyond the six month grace period, all the funds in the account are deemed to be owned by Maria. Therefore, \$100,000 is allocated for each of the four grantor/qualifying beneficiary relationships. The account is deemed insured for \$400,000, and a Receivership Certificate is issued for the uninsured amount of \$400,000.

Chapter 10

Accounts of a Corporation, Partnership or Unincorporated Association

Contents

This chapter contains the following information on Accounts of a Corporation, Partnership or Unincorporated Association:

Topic Title	Page Number
<u>Overview</u>	10-1
<u>Policy Statement</u>	10-2
<u>Legal Reference</u>	10-2
<u>Definitions</u>	10-3
<u>Insurance Determination</u>	10-3
<u>Documentation</u>	10-4
<u>Examples of Insurance Coverage</u>	10-5

Overview

The deposit insurance regulations provide separate deposit insurance coverage for certain accounts of a corporation, partnership or unincorporated association. Such accounts must clearly disclose that the ownership of the funds are those of the corporation, partnership or unincorporated association. These organizations must be engaged in independent activity and must not have been set up primarily for purposes of increasing deposit insurance coverage. Funds owned by a corporation, partnership or unincorporated associations are insured up to the limit of deposit insurance (\$100,000).

Sole proprietorship accounts are insured as single ownership funds of the sole proprietor and are not insured under this ownership category.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Accounts of a corporation, partnership or unincorporated association are insured in accordance with 12 C.F.R. 330.11.

Definitions

Corporation

An organization that is incorporated and maintained as a corporation under the laws of the state in which it resides. Most state laws require a corporation to use such words as "corporation", "company", "incorporated", or "limited" in its name. Professional corporations, such as law firms, accounting firms or doctor's medical practices commonly incorporate the use of "Limited Liability Corporation" ("L.L.C."), "Professional Association" ("P.A.") or "Professional Corporation" ("P.C.") to designate their corporate status.

Independent activity

A corporation, partnership or unincorporated association shall be deemed to be engaged in an "independent activity" if the entity is operated primarily for some purpose other than to increase deposit insurance. See 12 C.F.R. 330.1(g).

Partnership

A group of two or more individuals or entities formed to carry on, as co-owners, a business for profit. A partnership may not always have formal documents on file. Another type of partnership is the "limited partnership" which is set up under applicable law for limited risk or exposure. See 12 C.F.R. 330.11(b).

Unincorporated Association

A group of two or more persons formed for some religious, educational, charitable, social or non-commercial purpose. See 12 C.F.R. 330.11(c).

Insurance Determination

Deposit accounts owned by a corporation, partnership or unincorporated association are aggregated for each entity and insured up to the limit of deposit insurance (\$100,000). The corporation, partnership or unincorporated association must be engaged in independent activity. The account records must indicate that an entity is the owner of the funds or that the nominal account holder is an agent or custodian.

Deposit accounts held in the name of a corporation, partnership or unincorporated associations are separately insured from any deposit accounts the owner(s) or officials of a corporation, partnership, or unincorporated association may have.

(A) Corporate Accounts

Corporate accounts of the same entity are aggregated together and insured separately up to the limit of deposit insurance (\$100,000). To be eligible for this coverage the corporation must have been incorporated under state law.

A division or business unit of a corporation that is not separately incorporated will not receive separate insurance coverage. Rather, the funds in such accounts are aggregated with other funds held by the corporation. Similarly, deposit accounts identified and titled for different purposes, but owned by the same corporation, do not receive separate insurance coverage. The funds are aggregated with any other funds held by the same corporation. A subsidiary of one corporation will receive separate insurance coverage from its parent and other subsidiaries as long as it is separately incorporated and engaged in independent activity.

(B) Partnership Accounts

Eligibility requirements for deposit accounts of partnerships require they be established in accordance with state law to receive separate coverage under this ownership category. Funds of a partnership are insured separately from its partner's personal funds. The deposit accounts of a partnership engaged in an "independent activity" are aggregated and insured up to the limit of deposit insurance (\$100,000).

(C) Unincorporated Association Accounts

Unincorporated associations are required to disclose the organization name in the account title if separate insurance coverage is to be received in this ownership category. If the

account title lists only the names of the officers or principals of the association or organization, the funds would then be considered as the personal funds of those officers or principals. The deposit accounts of an unincorporated association engaged in an "independent activity" are aggregated and insured up to the limit of deposit insurance (\$100,000).

(D) Organization Accounts held by a Fiduciary

Escrow or other types of funds held by a fiduciary or agent for a corporation are considered insured funds of that corporation, provided the requirements for fiduciary accounts are met. Those funds are then added to other funds of that corporation within the same financial institution and insured up to the limit of deposit insurance (\$100,000).

Corporations or partnerships occasionally maintain accounts in "representative" or "fiduciary" capacities. To determine whether a corporation or partnership has funds on deposit in such a capacity and the appropriate deposit insurance coverage in such situations, see Chapter 6: Accounts Held by an Agent, Nominee, Guardian, Custodian or Conservator and/or Chapter 12: Irrevocable Trust Accounts.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature cards and/or certificate of deposit, passbook, or other account records of the financial institution including computer records.
2. Copy of the corporate resolution. This document will indicate who is authorized to make transactions on the account, and this is the person with whom the Claims Specialist should meet/talk.
3. Declaration of Independent Activity, Declaration of Independent Activity for Unincorporated Association, Declaration for Custodian Deposit and Affidavit of Agency Account (refer to Declaration of Independent Activity; Declaration of Independent Activity for Unincorporated Association; Declaration for Custodian Deposit; and Affidavit of Agency Account).
4. Copy of the RLS final grouping report for the group.
5. Copy of the RLS uninsured depositor analysis form.

Examples of Insurance Coverage

Example 1: Scenario

Partially Insured

Two differently titled deposit accounts belonging to the same corporation.

Situation

At the failed institution, there is an account titled "Total Control Corporation – Operations Division" with a balance of \$103,000. There is a second account titled "Total Control Corporation – Business Development Division" with a balance of \$126,500.

Analysis/Determination

In reviewing the grouping report for this group, the Claims Specialist notes that the taxpayer identification number (TIN) and mailing address are the same for both accounts. Therefore, the Claims Specialist determines that the funds in the two accounts are owned by the same corporation even though they are used for different purposes. He aggregates the funds in the two accounts. Total Control Corporation is insured to \$100,000 with a Receivership Certificate issued for the uninsured amount of \$129,500.

Example 2: Scenario

Partially Insured

Partnership with a single deposit account.

Situation

At the failed institution, there is an account titled "Maxell and Maxell", with a balance of \$200,000.

Analysis/Determination

The Claims Specialist reviews the grouping report and the signature card for the account and determines that the account is a partnership account. The account of the partnership is insured for \$100,000 with a Receivership Certificate issued for the uninsured amount of \$100,000.

Note: Despite the fact that there are two partners who have signed the signature card, deposit insurance flows to the partnership, not the individual partners.

Example 3: Scenario

Fully Insured Different unincorporated associations with deposit accounts found to be operating at the same location.

Situation

The failed institution has an account titled "Fifth Avenue Non-Denominational Church for \$90,000 and "Fifth Avenue Non-Denominational Private School" for \$90,000.

Analysis/Determination

The Claims Specialist reviews the grouping report and notes that the mailing address is the same for the two accounts, but the accounts have different TINs. The Claims Specialist contacts the church and school to have a Declaration of Independent Activity for Unincorporated Association (refer to Declaration of Independent Activity for Unincorporated Association) completed by both organizations. Upon review of the declarations the Claims Specialist determines that there is independent activity and the two organizations are separate legal entities. Therefore, the deposits of both organizations are separately and fully insured.

Example 4: Scenario

Fully Insured Mortgage servicing account of a corporation.

Situation

Mortgage Servicer, Inc. maintains an account at the failed institution in the amount of \$1,000,000, titled "Mortgage Servicer, Inc., Investor Account".

Analysis/Determination

The Claims Specialist contacts Mortgage Servicer, Inc. to discuss this account. He has Mortgage Servicer, Inc. complete a Declaration for Custodian Deposit (refer to Declaration for Custodian Deposit) and provide a list of the investors for whom it is holding principal and interest payments. When the documentation is received, the Claims Specialist determines if any of those investors have funds at the failed institution, either with another "agent" or directly on deposit. Refer to Chapter 6: Accounts Held by an Agent, Nominee, Guardian, Custodian, or Conservator for a discussion of pass through insurance. The Claims Specialist determines that no investors have funds over the insurance limit and the account is deemed fully insured.

Note: Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments by mortgagors of principal and interest, shall be added together and insured up to the limit of deposit insurance (\$100,000) for the interest of each owner (mortgagee, investor or security holder) in such accounts. Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments by mortgagors of taxes and insurance premiums shall be added together with any other like ownership interest account of the mortgagors and insured up to the limit of deposit insurance (\$100,000).

Example 5:**Scenario****Fully Insured**

Same corporation found to have a payroll and profit sharing deposit account.

Situation

The Shuttle, Inc. has its corporate payroll account at the failed institution in the amount of \$90,000. Shuttle, Inc.'s profit sharing account is also at the failed institution in the amount of \$90,000.

Analysis/Determination

The Claims Specialist reviews the grouping report and notes that Shuttle, Inc. has two accounts with the same address, but different TINs, and one account is its employee profit sharing account. The Claims Specialist determines that the two accounts are separately insured because Shuttle's corporate account is insured under the "Corporation, partnership and unincorporated association" category and the profit sharing account is insured under the "Retirement and other Employee benefit plan accounts" category. Refer to [Chapter 13: Retirement and Other Employee Benefit Plan Accounts](#) for further discussion of the Employee Benefit or Retirement Plans. Therefore, both accounts are deemed fully insured.

Example 6:**Scenario****Partially Insured**

Deposit account of a homeowners association.

Situation

"The Village on the Lake Homeowners Association" has its reserve fund at the failed institution in the amount of \$300,000.

Analysis/Determination

The Claims Specialist reviews the grouping report and determines that the account is insured for \$100,000. Upon learning of this, the treasurer for the homeowners association contacts the FDIC and advises the Claims Specialist that the funds in the account should be insured as owned by each member of the association and that there are 30 owners. The Claims Specialist asks what the funds are used for and the treasurer states they are used to pay general operating expenses of the association, such as routine maintenance and repairs. The Claims Specialist advises the treasurer that coverage for the association does not pass through to the owners as the funds are for use by the association as it deems appropriate. Therefore, the account is insured for \$100,000 and a Receivership Certificate for the uninsured amount of \$200,000 issued to the homeowners association.

Chapter 11

Accounts Held by Depository Institutions as Trustee of an Irrevocable Trust

Contents

This chapter contains the following information on Accounts Held by Depository Institutions as Trustee of an Irrevocable Trust:

Topic Title	Page Number
<u>Overview</u>	<u>11-1</u>
<u>Policy Statement</u>	<u>11-1</u>
<u>Legal Reference</u>	<u>11-1</u>
<u>Definitions</u>	<u>11-2</u>
<u>Insurance Determination</u>	<u>11-2</u>
<u>Documentation</u>	<u>11-4</u>
<u>Examples of Insurance Coverage</u>	<u>11-4</u>

Overview

The deposit insurance regulations provide separate deposit insurance coverage for certain accounts held by an insured depository institution in its capacity as trustee of an irrevocable trust, whether held in its trust department, held or deposited in any other department of the fiduciary institution, or deposited by the fiduciary institution in another insured depository institution.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Accounts held by depository institutions as trustee of an irrevocable trust are insured according to the rules set forth in 12 C.F.R. 330.12. Other related sections are 12 C.F.R. 330.1 and 12 C.F.R. 330.5.

Definitions

Fiduciary

A person or entity holding a position of trust or confidence recognized by law.

Irrevocable Trust

A trust established by a written trust agreement in accordance with state statute in which the settlor (creator of the trust) relinquishes all power to revoke the trust.

Trust Estate

See 12 C.F.R. 330.1(n). The determinable and beneficial interest of a beneficiary or principal in trust funds but does not include the beneficial interest of an heir or devisee in a decedent's estate.

Trust Funds

See 12 C.F.R. 330.1(o). Funds held by insured depository institution as trustee pursuant to any irrevocable trust established pursuant to any state statute or written trust agreement.

Trust Interest

See 12 C.F.R. 330.1(p). The interest of a beneficiary in an irrevocable trust (other than an employee benefit plan) created either by written trust instrument or by state statute, but does not include any interest retained by the settlor.

Insurance Determination

Trust funds which are held by an insured depository institution in its capacity as trustee of an irrevocable trust in any department of the fiduciary institution, or deposited by the fiduciary institution in another insured depository institution, shall be insured up to the limit of deposit insurance (\$100,000) for each owner or beneficiary represented. This insurance shall be separate from, and in addition to, the insurance provided for any other deposits of the owners or the beneficiaries. For "per beneficiary coverage," the beneficiary must have a "trust estate."

- (a) **Determination of interests** - Insurance for funds shall be determined in accordance with the following provisions:

(1) Allocated funds of a trust estate

If funds from a particular trust estate have been allocated to a specific deposit, then the allocation serves to determine the interest of such trust estate at the defaulted insured depository institution.

(2) Interest of a trust estate in unallocated trust funds

If funds of a particular trust estate are commingled with funds of other trust estates and deposited by the fiduciary institution in one or more insured depository institutions to the credit of the depository institution as fiduciary, without allocation of specific amounts from a particular trust estate to an account in such institution(s), the percentage interest of that trust estate in the unallocated deposits in any institution in default is the same as that trust estate's percentage interest in the entire commingled investment pool.

(b) Limitation on applicability

These provisions for separate insurance do not apply to deposits of trust funds belonging to a trust classified as a corporation under 12 C.F.R. 330.11 (a)(2).

The deposit account records of an insured depository institution may disclose the existence of a relationship which might provide a basis for deposit insurance coverage under the provisions of 12 C.F.R. 330.12. The details of the relationship and the interests of other parties in the account must be ascertainable either from the deposit account records of the insured depository institution or from records maintained, in good faith and in the regular course of business, by the depositor or by some person or entity that has undertaken to maintain such records for the depositor.

Once a determination has been made that the account qualifies as being held by the institution in its fiduciary capacity as trustee of an irrevocable trust then the insurance determination will be conducted utilizing the rules for an irrevocable trust as outlined in Chapter 12: Irrevocable Trust Accounts.

Note: The Claims Specialist may wish to consult with Legal before making a deposit insurance determination because of the potential complexities of trust documents.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature cards and/or other account records which expressly disclose, by way of specific references, the existence of any fiduciary relationship involving a trustee pursuant to which funds in an account are deposited and on which a claim for insurance coverage is based.
2. A copy of the document that appointed or established the depository institution to act as trustee of the irrevocable trust.
3. A copy of the trust document to determine the value of each beneficiary's ownership interest or other pertinent records of the Trustee that may determine a beneficial interest.
4. A completed Declaration for Trust form (see Declaration for Trust).
5. Copy of the RLS uninsured depositor analysis form.
6. Copy of the RLS final grouping report for the group.

The Claims Specialist may want to forward the documentation to Legal for a legal opinion as to whether the account qualifies as an Irrevocable Trust held by the institution as Trustee.

Examples of Insurance Coverage

Example 1: Scenario

Fully Insured Multiple irrevocable trusts.

Situation

Main Street National Bank fails. At the failed bank, there is a CD titled "Main Street NB as trustee for Sam's Trust". The CD balance is \$200,000. There is another account, also a CD, at the failed bank titled "Terry as trustee for Sam's Trust". It also has a balance of \$200,000.

Analysis/Determination

Since the titles of both accounts indicate that these may be trust accounts, the Claims Specialist does some research. He speaks with the failed bank's Trust Department and learns that they are the trustee of a trust for Sam. Consequently, the Claims Specialist has the Trust Department execute a Declaration for Trust form for this account. The Trust Department also provides a copy of the document which named

the Trust Department as the trustee for the trust. The Trust Department also provides a complete copy of the trust document to the Claims Specialist.

The Claims Specialist also speaks with Terry, who states that he is the trustee of an irrevocable trust for Sam with Sam's children, Ann and Bob, as beneficiaries. Terry executes a Declaration for Trust form and provides a complete copy of the trust document to the Claims Specialist.

Because of the multiple trusts, the Claims Specialist decides to consult with Legal. Legal reviews the various documents and advises the Claims Specialist that both trusts are irrevocable trusts with Sam as the settlor, with Main Street National Bank as trustee of one trust and Terry as trustee of the second trust. Sam's children, Ann and Bob, are the beneficiaries of each of the two trusts. Legal's review of the trust documents indicates that Ann and Bob are equal beneficiaries of the trusts and that their interests are non-contingent.

Consequently, the CD titled "Main Street NB as trustee for Sam's Trust" is insured for \$200,000 in accordance with 12 C.F.R. 330.12. The account titled "Terry as Trustee for Sam's Trust" is also insured for \$200,000, but in accordance with 12 C.F.R. 330.13.

Example 2:

Scenario

Partially Insured

Multiple irrevocable trusts.

Situation

At the failed financial institution, the Claims Specialist notes two accounts. One is titled "Failed Bank as Trustee for Jim's Trust #1". It has a balance of \$200,000. The second is titled "Failed Bank as Trustee for Jim's Trust #2". It has a balance of \$99,000.

Analysis/Determination

The Claims Specialist requests the bank's trust department complete and sign a Declaration for Trust form for both trusts. The Trust Department does as requested and also provides the Claims Specialist with a complete copy of both trust documents and the documents which name the Trust Department as the trustee of both trusts.

The Claims Specialist sends the documents to Legal for review. The legal opinion prepared by Legal indicates that both trusts are irrevocable trusts with Jim as settlor. The failed bank is trustee of both of the trusts. For Trust #1, June and Jim, Jr. are the beneficiaries. They share equally in the trust and their interests are non-contingent. For Trust #2, June, Jim, Jr. and Sally are the beneficiaries. They share equally in the trust. Their interests are non-contingent.

The accounts are insured in accordance with 12 C.F.R. 330.12. However, the aggregation rules for Irrevocable Trusts outlined in 12 C.F.R. 330.13 apply (the non-contingent interests of each beneficiary in one or more irrevocable trusts established by the same settlor are aggregated). Consequently, the Claims Specialist makes the following deposit insurance determination:

Trust	Balance	Interests of			Sally	
		June	Jim, Jr.			
1	\$200,000	\$100,000	\$100,000			
2	\$ 99,000	\$ 33,000	\$ 33,000	\$33,000		
	\$299,000	\$133,000	+	\$133,000	+	\$33,000 = \$299,000
	Insured:	\$100,000	+	\$100,000	+	\$33,000 = \$233,000
	Uninsured:	\$ 33,000	+	\$ 33,000		= \$ 66,000
						\$299,000

Therefore, \$233,000 is insured and a Receivership Certificate is issued for the uninsured amount of \$66,000.

Example 3:

Scenario

Partially insured

Irrevocable trust with commingled funds.

Situation

ABC Bank's Trust Department has \$1,000,000 on deposit at the failed bank.

Analysis/Determination

The Claims Specialist contacts ABC Bank's Trust Department and obtains from them a Declaration for Trust form. ABC Bank also provides copies of five trust documents and documents which name ABC Bank the trustee of those five trusts. Other documentation pertaining to the trusts is also sent by ABC Bank. The Claims Specialist sends this documentation to Legal for review.

Legal reviews the documentation and advises the Claims Specialist of the following: 1) all of the trusts are irrevocable trusts with ABC Bank as trustee; 2) the settlors of each trust are different people; 3) none of the beneficiaries are common to more than one trust; 4) the interests of the beneficiaries are non-contingent; and 5) each beneficiary has an equal share in his/her respective trust.

In addition, Legal states that the other documentation provided by ABC Bank shows that the funds of the five trusts were invested in a commingled fund managed by ABC Bank. The total of the

Chapter 11 Accounts Held by Depository Institutions as Trustee of an Irrevocable Trust

commingled funds was \$10,000,000, of which \$1,000,000 was on deposit at the failed institution.

- The interests of the five trusts in the commingled fund and the number of beneficiaries of each trust are as follows:

<u>Trust</u>	<u>% of Commingled Fund</u>	<u># of Beneficiaries</u>
Trust A	40%	4
Trust B	30%	2
Trust C	15%	1
Trust D	10%	2
Trust E	5%	1
	<u>100%</u>	<u>10</u>

The Claims Specialist makes the following insurance determination relating to the \$1,000,000 on deposit in accordance with 12 C.F.R. 330.12 and 12 C.F.R. 330.13:

<u>Trust</u>	<u>% of Deposit</u>	<u>\$ of Deposit</u>	<u>Bene.</u>	<u>Bene. Share</u>	<u>Insured</u>	<u>Uninsured</u>
A	40%	\$400,000	Alex Ruby Steve Anne	\$100,000 \$100,000 \$100,000 \$100,000	\$100,000 \$100,000 \$100,000 \$100,000	
B	30%	\$300,000	Joe Cliff	\$150,000 \$150,000	\$100,000 \$100,000	\$50,000 \$50,000
C	15%	\$150,000	Ben	\$150,000	\$100,000	\$50,000
D	10%	\$100,000	Alan George	\$ 50,000 \$ 50,000	\$ 50,000 \$ 50,000	
E	5%	\$ 50,000	Frank	\$ 50,000	\$ 50,000	
Totals	<u>100%</u>	<u>\$1,000,000</u>	<u>10</u>	<u>\$1,000,000</u>	<u>= \$850,000</u>	<u>+ \$150,000</u>

Therefore, \$850,000 is insured and a Receivership Certificate is issued for the uninsured amount of \$150,000.

Chapter 12

Irrevocable Trust Accounts

Contents

This chapter contains the following information on Irrevocable Trust Accounts. However, for accounts held by depository institutions as trustee of an irrevocable trust, please see Chapter 11: Accounts Held by Depository Institutions as Trustee of an Irrevocable Trust.

Topic Title	Page Number
<u>Overview</u>	<u>12-1</u>
<u>Policy Statement</u>	<u>12-1</u>
<u>Legal Reference</u>	<u>12-2</u>
<u>Definitions</u>	<u>12-2</u>
<u>Insurance Determination</u>	<u>12-3</u>
<u>Documentation</u>	<u>12-5</u>
<u>Examples of Insurance Coverage</u>	<u>12-5</u>

Overview

Separate insurance coverage is provided for certain Irrevocable Trust accounts. Insurance coverage for qualifying irrevocable trusts is based on each beneficiary's non-contingent interest in all irrevocable trusts created by the same settlor(s). Each beneficiary's non-contingent interest in all irrevocable trusts derived from the same settlor is insured up to the limit of deposit insurance (\$100,000).

Accounts previously referred to as Education IRAs are now known as Coverdell Education Savings Accounts (ESA). The deposit insurance analysis for these accounts is the same as for any other irrevocable trust.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Irrevocable Trust accounts are insured in accordance with 12 C.F.R. 330.13.

Definitions

Contingent Trust Interest

Trust interests that do not qualify as non-contingent trust interests as defined in 12 C.F.R. 330.1(l). The funds representing contingent interests will be added together and insured up to the limit of deposit insurance (\$100,000) in the aggregate. Such insurance coverage will be in addition to the coverage provided for the funds representing non-contingent trust interests. Two examples of a contingent interest would be the requirement to 1.) graduate from school, or 2.) marry in order to qualify for trust funds.

Irrevocable Trust

Established by state statute or a written trust agreement in which the settlor contributes funds and/or property and relinquishes all power to revoke the trust.

Non-Contingent Trust Interest

See 12 C.F.R. 330.1(l). 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 the Federal Estate Tax Regulations (26 C.F.R. 20.2031-7) or any similar present worth or life expectancy tables which may be adopted by the Internal Revenue Service. An example of a non-contingent interest would be the attainment of a certain age in order to qualify for trust funds.

Settlor

The creator of the trust, also known as the grantor.

Trust Interest

See 12 C.F.R. 330.1(p). The interest of a beneficiary in an irrevocable express trust created either by written trust instrument or by state statute. This does not include any interest retained by the settlor(s).

Insurance Determination

To obtain coverage in the irrevocable trust category, the following requirements must be met:

1. The existence of a trust relationship must be disclosed in the records of the institution. (See 12 C.F.R. 330.5 (b), Fiduciary Relationships, as quoted in Chapter 3: Deposit Insurance Rules and Regulations and as discussed in Chapter 4: General Insurance Principles.) This is done most easily by showing in the title of the account that a trust relationship exists and by completing the appropriate signature card. For example, the account may be titled "John Doe, Irrevocable Trust DTD 12/23/02" or "The Mary Smith Irrevocable Trust".
2. The trust must be valid and irrevocable.
3. The trust documents must name/identify the beneficiaries. Unlike revocable trusts, there is no kinship requirement to receive beneficiary coverage for an irrevocable trust.
4. The amounts of the beneficiaries' interests must be capable of determination. This can be done by using present worth tables and life expectancy tables, but a specific dollar interest must be calculable. Unquantifiable contingencies would prevent this requirement from being met.

Whenever the account records of an insured institution disclose that an account is held pursuant to a trust relationship, the Claims Specialist needs to have the trustee execute and sign a Declaration for Trust form. See Declaration for Trust. The trustee also must provide a complete copy of the trust document. When these documents are received, the Claims Specialist may need to forward them to Legal for an opinion as to whether the account qualifies as an Irrevocable Trust.

In reviewing the trust document, the Claims Specialist and Legal will determine if the account qualifies for coverage as an Irrevocable Trust based on the following criteria:

1. Irrevocability of Trust

The trust must contain an express provision regarding its revocability. If the trust agreement states that it is irrevocable, then insurance coverage is determined in accordance with 12 C.F.R. 330.13. If the trust agreement fails for deposit insurance coverage as an irrevocable trust, it should be reviewed to determine if it qualifies for deposit insurance coverage as a revocable trust, as discussed in Chapter 9: Revocable Trust Accounts.

2. Retention of Interest by Settlor

Since the definition of trust interest excludes any interest retained by a settlor, the trust agreement needs to be reviewed to determine whether the settlor has retained any interest in the trust. If a trust does not meet the requirements for separate coverage in the irrevocable trust category (for example, if the settlor retains an interest in some or all of the trust), the portion of the trust that does not meet the requirements (e.g. the retained interest) defaults to the settlor's single ownership funds and is aggregated with any other single ownership funds the settlor may also hold, and the total insured up to the limit of deposit insurance (\$100,000).

3. Valuation of Interest

The next step is to determine whether any beneficiary has a non-contingent interest in the irrevocable trust. The beneficiary's non-contingent interest will be aggregated with the beneficiary's non-contingent interests in all other accounts at the failed financial institution held on behalf of irrevocable trusts established by the same settlor. If a beneficiary does have a non-contingent interest, then present-worth tables will be used to value that interest unless the trust specifies that other tables should be used.

Any contingent interests in an irrevocable trust are aggregated and insured up to the limit of deposit insurance (\$100,000). Therefore, it is essential to determine whether an interest is contingent. This generally entails legal analysis of the trust.

Note: Contingent interests from separate irrevocable trusts may be separately insured even if the trusts are established by the same settlor.

Non-Contingent Interest

Insurance coverage for qualifying irrevocable trusts is based on each beneficiary's non-contingent interest in all irrevocable trusts created by the same settlor(s). Each beneficiary's non-contingent interest in all irrevocable trusts derived from the same settlor is insured up to the limit of deposit insurance (\$100,000) in the aggregate at each insured institution. When an irrevocable trust is established by two or more settlors, each trust interest is deemed to be derived from each settlor pro rata to his or her contribution to the trust.

Irrevocable trust accounts where the existence of the trust has failed to be disclosed, or which fail to meet legal requirements for a valid trust, do not qualify for deposit insurance under the irrevocable trust category of ownership. Typically, if the trust fails, the trust reverts to the single ownership category of the settlor.

Trust accounts in which the settlor and beneficiary are the same party also fail for consideration of deposit insurance under the irrevocable trust category of ownership and are insured under the single ownership category as the settlor's own funds. Further, any trust interest retained by the settlor is also insured as the settlor's single ownership funds.

Contingent Interest

Whenever any irrevocable trust involves contingent interests (i.e., interests that do not qualify as non-contingent trust interests), the funds representing those interests are insured in the aggregate up to the limit of deposit insurance (\$100,000). This is separate from the insurance coverage provided for any non-contingent interests.

An irrevocable trust may be made up wholly of contingent interests, as is often the case with scholarship trusts where a certain scholarship amount is awarded to whomever qualifies (according to criteria set out by the trust) for the scholarships. The beneficiaries are not predetermined. In this case, the entire trust is insured only up to the limit of deposit insurance (\$100,000) regardless of the number of (potential) beneficiaries.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature cards, certificates of deposit and/or other account records which expressly disclose that an account is held pursuant to a trust relationship.
 2. A copy of the trust document.
 3. A completed Declaration for Trust form (refer to Declaration for Trust).
 4. Copy of the RLS uninsured depositor analysis form.
 5. Copy of the RLS final grouping report for the group.
 6. Legal opinion, if obtained.
-

Examples of Insurance Coverage

Example 1: Scenario**Fully Insured** Irrevocable trust account with a non-contingent interest.**Situation**

At the failed institution, there is a CD titled "Tom Smith Irrevocable Trust DTD 12/1/02". The balance of the CD is \$200,000.

Analysis/Determination

The Claims Specialist reviews the signature card and determines that Joe Smith is the trustee for the trust. The Claims Specialist requests a Declaration for Trust form from the trustee, as well as a complete copy of the trust. Upon receipt of the documentation from the trustee, the Claims Specialist refers the documentation to Legal for an opinion. After reviewing the documents, Legal determines that the trust is a valid irrevocable trust, and that Ann Smith and Bob Smith are equal beneficiaries with non-contingent interests in the trust. Their non-contingent interests are insured for \$100,000 each. Therefore, the account is fully insured.

Example 2: Scenario**Partially Insured** Irrevocable trust account with a non-contingent interest.**Situation**

At the failed institution, there is a CD titled "Mary Smith Irrevocable Trust DTD 08/1/02". The balance of the CD is \$250,000.

Analysis/Determination

The Claims Specialist reviews the signature card and determines that Brenda Smith is the trustee for the trust. The Claims Specialist requests a Declaration for Trust form from the trustee, as well as a complete copy of the trust. Upon receipt of the documentation from the trustee, the Claims Specialist refers the documentation to Legal for an opinion. After reviewing the documents, Legal determines that the trust is a valid irrevocable trust, and that Harry Smith is the sole beneficiary. His interest is non-contingent. Therefore, the account is insured for \$100,000 and a Receivership Certificate is issued for the uninsured amount of \$150,000.

Example 3: Scenario

Fully Insured Irrevocable trust account with contingent and non-contingent interests.

Situation

The failed institution has an account titled "Sarah Jones Irrevocable Trust dated 01/02/01". The balance in the account is \$400,000.

Analysis/Determination

The Claims Specialist reviews the signature card and determines that the trustee is Patrick Coleman. The Claims Specialist requests a complete copy of the trust and a Declaration for Trust form from the trustee. Once the documentation is received, the Claims Specialist refers the documentation to Legal for an opinion. Legal advises that the trust is a valid irrevocable trust, and that there are three beneficiaries with non-contingent interests of \$100,000 each. The fourth beneficiary must complete college before he has access to his interest and that beneficiary has not yet done so. Therefore, that beneficiary's interest is contingent. Thus, the account is insured for \$300,000 for the non-contingent interests of three beneficiaries and also is insured for \$100,000 for the contingent interest of the trust.

Example 4: Scenario

Partially Insured Irrevocable trust account with a contingent interest.

Situation

The failed institution has an account titled "Peter Smith Education Trust". The balance in the account is \$150,000.

Analysis/Determination

The Claims Specialist reviews the signature card and determines that Peter not only is the settlor but also the trustee. The Claims Specialist requests a complete copy of the trust and a Declaration for Trust form from Peter. (Note: The request for the documentation is made to Peter in his capacity as trustee of the trust, not in his capacity as settlor of the trust.) Upon receipt of the documentation, the Claims Specialist refers the documentation to Legal for an opinion. Legal advises that the trust document is written so that the principal and income are to be used for the furtherance of legal education, at the discretion of the trustee, and that the beneficiaries under the trust are indeterminable and cannot be ascertained. All of the interests are contingent. Therefore, the total trust interest is insured for \$100,000. A Receivership Certificate is issued for the uninsured amount of \$50,000.

Chapter 13

Retirement And Other Employee Benefit Plan Accounts

Contents

This chapter contains the following information on Retirement and Other Employee Benefit Plan Accounts (including any eligible deferred compensation plan described in the Internal Revenue Code of 1986{26 U.S.C. 457}):

Topic Title	Page Number
<u>Overview</u>	<u>13-1</u>
<u>Policy Statement</u>	<u>13-1</u>
<u>Legal Reference</u>	<u>13-2</u>
<u>Definitions</u>	<u>13-2</u>
<u>Insurance Determination</u>	<u>13-5</u>
<u>Documentation</u>	<u>13-9</u>
<u>Examples of Insurance Coverage</u>	<u>13-9</u>

Overview

The deposit insurance regulations provide separate deposit insurance coverage for certain employee benefit plan accounts and certain self-directed retirement plan accounts. Certain employee benefit plans are insured on a "pass-through" basis provided the interests of the participants are ascertainable and non-contingent. These "pass-through" interests are generally not aggregated with a participant's self-directed retirement plan accounts.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

These accounts are insured in accordance with:

- 12 U.S.C. 1821(a)
 - 26 U.S.C. 401(d), 408(d), and 457
 - 29 U.S.C. 1002
 - 12 C.F.R. 330.14
-

Definitions

Due to the complex nature of the rules governing insurance for this category of ownership and the fact that certain terms are related to only employee benefit plan accounts or self-directed retirement plan accounts, definitions are divided into three categories:

A. General Terms

Contingent Interest

An interest in an employee benefit plan in which the beneficiaries' identities or the value of their interests cannot be determined.

Employee Benefit Plan/Employer-Sponsored Benefit Plan

The term employee benefit plan has the same meaning given to such term in Section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1002) and includes any plan described in Section 401(d) of the Internal Revenue Code of 1986.

Keogh Plan

A Keogh plan is a qualified retirement plan for a self-employed individual. It may be either a defined contribution or defined benefit plan. If the word "Keogh" or "HR-10" (House Resolution number) appears in the title of the account or plan document, then the account is a Keogh plan account. In addition, a Keogh plan may be either an employee benefit plan or a self-directed plan. Determination of the correct classification will depend upon the plan documents and who is responsible for directing the plan assets.

Non-Contingent Interest

An interest that is capable of determination without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use as set forth in Section 20.2031-7 of the Federal Estate Tax Regulations (26 C.F.R. 20.2031-7) or any similar present worth or life expectancy tables which may be adopted by the Internal Revenue Service. [(Refer to 12 C.F.R. 330.14(g)(4)].

457 Benefit Plan

Some eligible deferred compensation plans described in Section 457 of the Internal Revenue Code of 1986 (26 U.S.C. 457). These are generally non-qualified deferred compensation plans for states, counties, cities, agencies and their political subdivisions or agencies and non-profit organizations. These types of plans can be classified as either employee benefit plans or self-directed plans. Determination of the correct classification will depend upon the plan documents and who is responsible for directing the plan assets.

B. Terms Relating to Employee Benefit Plans

Defined Benefit Plan

A plan under which the employer is obligated to pay a retired employee (the "participant") a specified benefit amount most often based on the employee's years of creditable service and salary at time of retirement. The participant's interest is determined from the plan documents. The interest of the plan participant equals the current value of accrued benefits as of the date of default of the insured financial institution. The participant's interest is the current value of the participant's accrued benefit divided by the total plan assets multiplied by the balance of the plan account at the institution.

Defined Contribution Plan

A plan in which each participant has one or more accounts made up of contributions from the participant and/or the employer.

Employee Welfare or Welfare Benefit Plan

A plan established by an employer or union in order to provide employees with medical, health, or hospitalization benefits; or income in the event of sickness, accident, or death. A plan participant's interest must be ascertainable and non-contingent.

Health Savings Account (“HSA”)

HSAs were authorized in the Medical Prescription Drug, Improvement, and Modernization Act of 2003. HSA accounts are established to pay “qualified medical expenses” of the individual who established the account or the individual for whom the account is established. HSA accounts established by an employer are considered an employee benefit plan deposit. (HSAs established by an individual are considered single owner or revocable trust accounts depending on the named beneficiaries or lack thereof).

C. Terms Relating to Self-Directed Retirement Plans

Individual Retirement Account (“IRA”)

Traditional IRA accounts established pursuant to Section 408 of the Internal Revenue Code. Limited annual contributions made to the account and the earnings thereon are not subject to federal income tax until distributions are made from the account. Rollover funds from a qualified retirement plan may also be deposited into an IRA account.

Roth IRA Plan

An IRA account where the annual contributions are not deductible from income for federal income tax purposes. The contributions and earnings thereon are federal income tax-free when withdrawn.

Simplified Employment Pension Plan (“SEP”) IRA

These are also IRA accounts where an employer makes contributions to an IRA by or on behalf of its employees. Employers use SEPs to provide retirement benefits to employees without having to become involved in the complex administrative and reporting requirements of qualified ERISA-governed retirement plans. The employee owns and controls the account, and contributions become property of the employee when deposited.

Insurance Determination

Employee Benefit Plan Accounts

Employee benefit plan accounts are accounts held by a plan that satisfies the requirements of an employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("ERISA") and includes any plan described in Section 401(d) of the Internal Revenue Code of 1986. Employee benefit plan accounts may consist of funds from pension, profit sharing, certain eligible deferred compensation or other types of employee benefit plans. For deposit insurance purposes, the origin of the funds is not a factor. Plan funds may be derived from:

- Employee contributions made on a before-tax or an after-tax basis.
- Employer contributions
- Rollover contributions from other "qualified plans"

Types of employee benefit plans include:

- | | | |
|---------------------------|---|--|
| Defined benefit plan | - | Plan where the employer is obligated to pay a retired employee a specific benefit amount upon retirement. The benefit amount is usually a factor of high salary and years of service. |
| Defined contribution plan | - | Most common is the 401(k) plan where the account balance is comprised of funds contributed by both the employer and employee. Other types of defined contribution plans include money purchase pension plans, thrift plans, employee stock ownership plans (ESOP) and savings plans. |
| Employee welfare plan | - | Plan established by an employer or union for the benefit of its employees. These plans generally provide employees with medical or hospitalization benefits or income in the event of sickness. |
| Keogh plan | - | Keogh plan that is not self-directed. |
| Section 457 plan | - | These are deferred compensation plans for employees of state, local government and non-profit organizations which are not self-directed. Depending upon the details of the plan, a 457 Benefit Plan may be either an employee benefit plan or self-directed retirement plan. |

Employment benefit plan accounts are generally established by an employer for the benefit of one or more employees (the participants). If the failed financial institution met the capital status requirements (see below) and the interest of the participant is ascertainable and non-contingent, the participant's interest in the account qualifies for pass-through insurance up to the limit of deposit insurance (\$100,000). If the capital status requirements are not met and/or the participant's interest is contingent, pass through insurance will not be afforded to the participant and the balance of the account will be insured up to the limit of deposit insurance (\$100,000).

An employee benefit plan account may contain funds which represent both contingent and non-contingent interests of plan participants. An example of a contingent interest is when an employee is not vested or is only partially vested in the plan at the time of the failure of the financial institution which has the deposit. Contingent interests of all plan participants are aggregated and insured up to the limit of deposit insurance (\$100,000). The deposit insurance coverage for the contingent interests is separate from any deposit insurance coverage for the non-contingent interests of plan participants.

In addition, an employee benefit plan may be overfunded. Such overfunding is typically due to employer contributions made to a plan for former employees who were not vested or were only partially vested they they left their employer. (These funds are typically called "forfeiture" balances). Overfunded balances in an employee benefit plan are insured up to the limit of deposit insurance (\$100,000). This deposit insurance is separate from the contingent interests of the plan and the non-contingent interests of the plan participants.

Qualifying for Pass-Thru Insurance

Generally, deposits of an employee benefit plan or of some eligible deferred compensation plans as described in Section 457 of the Internal Revenue Code of 1986 (26 U.S.C. 457) shall be insured on a pass-through basis, in the amount up to the limit of deposit insurance (\$100,000) for the non-contingent interest of each plan participant. A non-contingent interest is one in which the identity of the beneficiary and their ownership interest in the account can be determined without evaluation of contingencies except for those covered by the present worth tables (life expectancy).

If there are funds from multiple plans in one or more deposit accounts, each participant's non-contingent interest is aggregated with any other non-contingent interests of that same participant in other employment benefit plans created by the same employer or sponsor and insured up to the limit of deposit insurance (\$100,000). This means, if a company establishes accounts for two separate plans at the same institution for the same employees, each employee's non-contingent interest in the two plans is aggregated and the total is insured up to the insurance limit (\$100,000).

Employee benefit plan accounts qualify for pass-through coverage when the following capital status conditions of the failed financial institution are met:

1. The deposit is accepted by the institution when the institution is "well capitalized", or
2. The deposit is accepted by the institution when the institution is "adequately capitalized" and either of the following conditions exist:
 - (a) The institution possesses a waiver from the FDIC to accept brokered deposits; or
 - (b) The institution has provided the depositor with a written statement representing that the deposit is eligible for pass-through insurance coverage.

If the depository institution does not satisfy the above conditions at time of acceptance of the deposit, then the deposit will not qualify for pass-through insurance. Acceptance of the deposit will include the initial deposit, any renewal of a certificate of deposit, or any deposits subsequently made to the account.

Conversely, pass-through insurance coverage is not available under the following circumstances:

1. The deposit is accepted by the institution when the institution is "undercapitalized", or
2. The deposit is accepted by the institution when the institution is "adequately capitalized" and neither of the following conditions exist:
 - (a) The institution possesses a waiver from the FDIC to accept brokered deposits; or
 - (b) The institution has provided the depositor with a written statement representing that the deposit is eligible for pass-through coverage.

Legal or DSC should be consulted to determine if there are periods of time that the institution could not accept brokered deposits.

Self-directed Retirement Accounts

Self-directed retirement accounts are accounts that qualify under the Internal Revenue Code and, generally, such accounts are opened and controlled by the owner of the funds and not by the plan administrator or trustee. Types of plans covered under this category include:

- IRA - Individual retirement accounts that qualify under Section 408(a) of the Internal Revenue Code of 1986.
- Keogh plan - Self-directed Keogh plan accounts that qualify under Section 401(d) of the Internal Revenue Code of 1986.
- Section 457 plan - These are deferred compensation plans for employees of state, local government and non-profit organizations.

Self-directed retirement accounts shall be aggregated and insured in the amount up to the limit of deposit insurance (\$100,000) per owner regardless of the number of beneficiaries named on the account. This insurance coverage is separate from an owner's ("participant's") interest in employee benefit plans or any other non-retirement accounts of the owner in the same institution. Further, 12 C.F.R. 330.14(c)(2)(B) requires the aggregation of pass-through amounts under self-directed Section 457 plans. If such a condition exists, refer to Legal.

When the individual who established the account (owner) dies, the succeeding beneficiary (ies) becomes the vested beneficial owner of the account and, under the Internal Revenue Code, has various options regarding the funds. If such a situation is encountered, it may be necessary to determine the date of death of the original owner of the account and obtain other information (such as the age of the beneficiary and whether or not the beneficiary has begun to receive payments from the account and/or added funds to the account) before making a deposit insurance determination. In such complicated situations, Legal should be consulted.

Note: Coverdell Education Savings accounts, formerly known as "Education IRAs" should be analyzed as irrevocable trust accounts and are covered in Chapter 12: Irrevocable Trust Accounts.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

Employee Benefit Plan Accounts:

1. Signature cards and/or certificate of deposit, passbook, or other account records of the financial institution including computer records. These records must indicate that the funds are held by the plan administrator pursuant to a fiduciary relationship.
 2. Valid employee benefit plan documents.
 3. Verification that the "per-participant" interests are ascertainable and non-contingent. In most cases, this information will have to be obtained from the plan administrator and from the declarations.
 4. Declaration for Plan and Trust – used to verify that the plan documentation submitted by the account holder is valid as of the date of closing.
 5. Declaration for Defined Benefit Plan (if applicable) – used to determine the value of the participant's accrued benefit on a present value basis, and also whether the plan may be overfunded. The overfunded portion is insured to the insurance limit (\$100,000).
 6. Declaration for Defined Contribution Plan (if applicable) – used to determine the largest participant's interest in the plan, which may need to be repeated until the remaining participants' interests are determined to be under the insurance limit (\$100,000).
 7. Declaration for Health and Welfare Plan (if applicable) – used to determine the value of plan assets, death benefits paid, claims not paid, and participants' balances.
 8. RLS uninsured deposit analysis reports and RLS grouping reports.
-

Self-directed Retirement Accounts

1. Account records of the institution, including signature cards and copies of CDs issued. The records must indicate that the account is an IRA, Keogh or other type of employee benefit plan account such as a SEP or self-directed 457 plan account.
 2. Declaration for IRA/KEOGH Deposit – may be used if records of the institution are not adequate.
 3. RLS uninsured deposit analysis reports and RLS grouping reports.
-

Examples of Insurance Coverage

Example 1:

Scenario

Partially Insured

An individual with several types of qualified retirement accounts at the same institution.

Situation

At the failed financial institution, the following accounts exist:
“James Jones IRA” with a balance of \$32,000;
“James Jones Keogh Plan” with a balance of \$71,000; and
“James Jones - State of Texas Section 457 Plan” with a balance of \$28,000.

Analysis/Determination

In reviewing the grouping report, the Claims Specialist notices the IRA and Keogh Plan accounts for James Jones. The Claims Specialist contacts Mr. Jones and has him submit an executed Declaration for IRA/Keogh Deposit. He also notices the Section 457 Plan account. The Claims Specialist requests that a Declaration for Plan and Trust and Declaration for Defined Contribution Plan (with appropriate supporting documentation) be submitted by the Plan’s trustee. When reviewing those documents, the Claims Specialist notices that the participants in the 457 Plan direct their own investments and, further, that James Jones is one of the participants. Therefore, the Claims Specialist must aggregate all three accounts.

Since the accounts total \$131,000, \$100,000 is insured and a Receivership Certificate is issued for the uninsured amount of \$31,000.

Example 2:**Scenario****Fully Insured**

A corporation with an operating account and a qualified employee benefit plan account.

Situation

At the failed institution, there is an account titled “Smith Corporation Pension Trust” for \$160,000 and another account titled “Smith Corporation” with a balance of \$100,000.

Analysis/Determination

In a conversation with the trustee of the Smith Corporation Pension Trust, the Claims Specialist learns that it is a defined contribution plan. Therefore, the Claims Specialist requests that the trustee of the Smith Corporation Pension Trust submit and execute a Declaration for Plan and Trust form and a Declaration for Defined Contribution Plan form and provide appropriate supporting documentation. When received, the Claims Specialist reviews those forms, which indicate that the “Smith Corporation Pension Trust” is a defined contribution plan with 2 participants. The first participant has a non-contingent interest of \$90,000 and the second participant has a non-contingent interest of \$70,000. The Claims Specialist has also spoken with Legal and has confirmed that the failed institution met capital requirements at the time

that it accepted the deposits in that account. Therefore, the account qualifies for pass-through insurance.

Each participant's interest is fully insured per 12 C.F.R. 330.14(a).

The \$100,000 in the "Smith Corporation" account is insured separately as a corporation (see Chapter 10: Accounts of a Corporation, Partnership, or Unincorporated Association).

Example 3:**Scenario****Partially Insured**

An individual with interests in two employee benefit plan accounts and an individual account at the same institution.

Situation

Tony Jones participates in a defined benefit plan and a defined contribution plan, both sponsored by his employer, The Incredible Nonsense Company. Both plans have accounts at the failed institution. Tony also has a checking account for \$5,000 at the failed institution.

Analysis/Determination

The Claims Specialist obtains executed Declaration for Plan and Trust, Declaration for Defined Benefit Plan and Declaration for Defined Contribution Plan forms from the trustee of the plans, with appropriate supporting documentation. The documentation indicates that Tony had ascertainable and non-contingent interests in each of the two plans. His interest in the defined benefit plan is \$50,000; his interest in the defined contribution plan is \$60,000. The Claims Specialist knows from his discussions with the Claim Agent in Charge that the failed institution was eligible to accept brokered deposits. Therefore, the plans qualify for pass through insurance.

Tony's interests in the two plans are aggregated (\$110,000) and insured for the insurance limit (\$100,000) leaving him uninsured for \$10,000. A Receivership Certificate is issued for the uninsured amount.

His checking account for \$5,000 is fully insured under the single ownership category (see Chapter 5: Single Ownership Accounts).

Example 4: Scenario

Fully Insured A company with a qualified, overfunded defined contribution plan with pass-through coverage and a contingent interest amount.

Situation

At the failed institution there is an account titled "Hercules Company Savings Plan." It has a balance of \$600,000.

Analysis/Determination

The Claims Specialist requests that the plan's sponsor complete a Declaration for Plan and Trust as well as a Declaration for Defined Contribution Plan (with appropriate supporting documentation). A review of these documents indicates that the plan was a defined contribution plan. The plan documents also indicate that four participants had ascertainable and non-contingent interests of \$100,000 each. A balance of \$100,000 was determined to be contingent. In addition, the plan is overfunded in the amount of \$100,000.

Legal has previously advised Claims that the failed institution met the capital standards for accepting brokered deposits; therefore, the account qualifies for pass through insurance.

The four participants are insured for the insurance limit (\$100,000) each (12 C.F.R. Section 30.14(d)(1)). The contingent amount is insured for the insurance limit (\$100,000) (12 C.F.R Section 330.14 (e)) and the overfunded balance is insured up to the insurance limit (\$100,000) (12 C.F.R. Section 330.14(f)). Therefore, the account is fully insured.

Example 5: Scenario

Fully Insured An individual with an interest in two qualified employee benefit plan accounts in the same institution sponsored by different companies.

Situation

The following accounts are found at the failed institution: 1) XYZ Company Defined Benefit Plan with \$190,000; 2) ABC Company (401)(k) Savings Plan with a balance of \$235,000.

Analysis/Determination

The Claims Specialist requests and the plan sponsors provide the Declaration for Plan and Trust for both plans, as well as the Declaration for Defined Benefit Plan for plan (1) and the Declaration for Defined Contribution Plan for plan (2), all with appropriate supporting documentation. Claims has been advised by DSC that the failed institution was eligible to accept brokered deposits. Therefore, the accounts qualify for pass through insurance.

In reviewing the plan documentation, the Claims Specialist notices that John has an ascertainable and non-contingent interest in both plans. His interest in the first plan is \$65,000. His interest in the second plan is \$90,000. Since these plans are sponsored by different employers, each account qualifies for separate pass through insurance and John is fully insured.

Example 6:

Scenario

Partially Insured

A corporation with a qualified defined contribution plan with a large account balance where the individual interests must be computed to determine pass-through insurance coverage.

Situation

On the grouping report for the failed financial institution, there is a CD account for the "Beeline Employees 401(k) Plan" with a balance of \$1,000,000.

Analysis/Determination

The Claims Specialist reviews CD records and learns that the deposit was placed at the failed institution on September 30, 1999. He consults with Legal and learns that the institution was eligible to accept brokered deposits on that date; therefore, the account qualifies for pass through insurance coverage.

The Claims Specialist contacts the plan sponsor, who submits an executed Declaration for Plan and Trust and the Declaration for Defined Benefit Plan along with appropriate supporting documentation. The documentation indicates that 200 employees participate in the plan. No one participant had more than a 5% interest in the plan, except for the following employees:

Vice-President: 20% (20% x \$1,000,000 = \$200,000 ownership interest)

Senior Vice-President: 15% (15% x \$1,000,000 = \$150,000 ownership interest)

President: 12% (12% x \$1,000,000 = \$120,000 ownership interest)

The interests of those three individuals are insured to \$100,000 each, with the amount over that amount being uninsured. Since no other participant has greater than a \$50,000 interest (5% x \$1,000,000), the interests of the other participants are fully insured. In the aggregate, the plan is insured for \$830,000 and uninsured for \$170,000 (\$100,000 + \$50,000 + \$20,000). A Receivership Certificate for the total uninsured amount is issued to the plan.

Example 7:**Scenario****Partially Insured**

A company with a qualified employee benefit plan that made a deposit during a period when the institution was *ineligible* to receive brokered deposits.

Situation

At the failed financial institution, there is an account titled “XYZ Corporation Defined Benefit Plan” with a balance of \$10,000,000.

Analysis/Determination

Legal has advised Claims that the failed financial institution’s capital was inadequate and that the failed financial institution was ineligible to accept brokered deposits from July 1 to December 31, 1999.

The Claims Specialist who is working this account reviews the records of the failed institution and discovers that XYZ Corporation Defined Benefit Plan deposited \$1,000,000 into the account on September 1, 1999. The remaining portion of the account balance was not deposited during the ineligibility period. Therefore, \$1,000,000 of the total account balance receives “per plan” coverage and is only insured for \$100,000 with \$900,000 uninsured.

The Claims Specialist also contacts the plan administrator and requests that he execute and submit a Declaration for Plan and Trust and Declaration for Defined Benefit Plan with appropriate supporting documentation. That documentation indicates that there are 95 participants in the plan and the three largest participants are the CEO, who owns 5% of the plan’s assets; the CFO, who owns 3% of the plan’s assets; and the Corporate Secretary, who owns 1% of the plan’s assets.

Based on that information, the Claims Specialist calculates the individuals' ownership of the plan's assets which are eligible for pass through insurance as follows:

CEO	5% x \$9,000,000 = \$450,000 ownership interest \$100,000 insured and \$350,000 uninsured
CFO	3% x \$9,000,000 = \$270,000 ownership interest \$100,000 insured and \$170,000 uninsured
Corporate Secretary	1% x \$9,000,000 = \$ 90,000 ownership interest is fully insured

Since the Corporate Secretary is listed as one of the three largest participants and his ownership share equals \$90,000, the Claims Specialist knows that the other 92 participants are fully insured because their ownership interests are less than that of the Corporate Secretary, who is fully insured.

To recap the insurance determination on this account:

\$10,000,000	Account Balance
(900,000)	Uninsured funds for the Plan (\$100,000 insured)
(350,000)	Uninsured for the CEO
<u>(170,000)</u>	Uninsured for the CFO
\$ 8,580,000	<i>Insured deposit</i>

A Receivership Certificate is issued to XYZ Corporation Defined Benefit Plan for the uninsured amount of \$1,420,000 (\$900,000 + \$350,000 + \$170,000).

Example 8: Scenario

Fully Insured A small business (dental office) has a qualified employee benefit plan and participants in the plan also have IRAs at the failed institution.

Situation

On the grouping report there is an account titled "Dr. Tooth, Employees 401(k) Retirement Plan" in the amount of \$120,000. In addition, there is an account titled "Dr. Pull Your Tooth IRA" for \$100,000 and an account titled "Moan Tooth IRA" for \$100,000.

Analysis and Determination

The Claims Specialist contacts Dr. Tooth, who is the plan administrator of the 401k account, and has him execute and submit a Declaration for Plan and Trust form and a Declaration for Defined Contribution Plan form with appropriate supporting documentation. In reviewing that

documentation, the Claims Specialist notices that only the plan administrator has the authority to direct the investments of the plan. The plan participants do not have the right to direct investments of the plan. The plan documentation also indicates that there were two participants, Dr. Pull Your Tooth and Moan Tooth, and that their interests were ascertainable and non-contingent. Neither of their individual interests in the plan totaled \$100,000. Therefore, the \$120,000 in the plan is fully insured.

Since the plan participants did not have the authority to self-direct their portion of the plan's assets, the plan is insured separately from the IRAs of the two individuals. Since the IRAs each contain less than \$100,000, they are also fully insured.

Note: If the Plan Documents gave the participants the right to direct their accounts to any investment they desired, then their accounts would be deemed self-directed and aggregated with their IRA accounts for purpose of calculating deposit insurance under this category of ownership.

Chapter 14

Public Unit Accounts

Contents

This chapter contains the following information on Public Unit Accounts:

Topic Title	Page Number
<u>Overview</u>	<u>14-1</u>
<u>Policy Statement</u>	<u>14-1</u>
<u>Legal Reference</u>	<u>14-2</u>
<u>Definitions</u>	<u>14-2</u>
<u>Insurance Determination</u>	<u>14-3</u>
<u>Documentation</u>	<u>14-5</u>
<u>Examples of Insurance Coverage</u>	<u>14-6</u>

Overview

Public unit accounts are insured as a separate category of ownership. Because of the unique deposit insurance regulations concerning demand (generally non-interest bearing) and time and savings (generally interest bearing) accounts of public units, the amount of deposit insurance is often greater than the standard (\$100,000) limit of deposit insurance. In addition, financial institutions frequently pledge some of their assets, generally securities, to secure deposits of public units. State laws govern the pledging of assets which collateralize public unit deposits. Deposits of a public unit are protected first by deposit insurance and then by the proceeds from the liquidation of any properly pledged securities.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Public unit accounts are insured according to the rules set forth in 12 C.F.R 330.15 and 12 C.F.R. 330.13.

Definitions

Official Custodian

A person elected or appointed to serve in such capacity and have plenary (i.e., full, complete, absolute) authority including control over the funds owned by the public unit. Control of public funds includes possession, as well as the authority to establish accounts for such funds in insured depository institutions and to make deposits, withdrawals, and disbursements of such funds. If control over the funds requires action by, or the consent of, two or more officers, employees, or agents of such public unit, they will be treated as one "official custodian."

Public Subdivision

Includes 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. Also included are subdivisions or departments expressly authorized by the law of such public unit, to which some functions of government have been delegated by such law and which are empowered to exercise exclusive control over funds for their exclusive use. If the same individual is an official custodian for more than one public unit or political subdivision, he is separately insured for the public unit funds held by him for each unit.

Public Unit Accounts

Accounts of the United States, the District of Columbia, any state of the United States, or any county, municipality or political subdivision thereof, accounts of the Commonwealth of Puerto Rico, and other government possessions and territories, and accounts of an Indian tribe. Examples of accounts of the United States are those of a federal department or agency, such as the Department of Housing and Urban Development (HUD) or the Federal Bureau of Investigation (FBI), or an account maintained by a military installation.

Insurance Determination

Insurance coverage of a public unit account differs from that of a corporate account in that the coverage extends to the official custodian of the funds belonging to the public unit, rather than the public unit itself. However, the deposit account should be opened in the name of the public unit or political subdivision.

Public entities located in the same state as the failed institution (including a branch in the same state as the public unit, even though the bank is chartered in a different state) can have up to \$200,000 deposit insurance coverage per official custodian. Deposit insurance is allowed up to \$100,000 for demand accounts (generally non-interest bearing) and up to \$100,000 for time and savings deposits (including NOW accounts) (generally interest bearing accounts).

Note: Hereinafter the phrase “non-interest bearing” will be used in lieu of “demand deposit”. The phrase “interest bearing” will be used in lieu of “time and savings”.

Public unit funds maintained in an out-of-state institution, whether interest bearing or non-interest bearing, are limited to a maximum of \$100,000 per official custodian.

Non-interest bearing accounts maintained by an official custodian of the United States are also insured separately from interest bearing accounts maintained by the same custodian at the same financial institution, regardless of the state in which the institution is located.

Public Bond Issues

Additional insurance is provided for funds, held by an officer, agent, or employee of a public unit, which are required by law or under a bond indenture to be paid to the holders of bonds issued by the public unit. Such funds are insured as trust funds and the bondholders are treated as pro rata beneficiaries of the trust funds. Each bondholder's beneficial interest in the funds is insured up to the limit of deposit insurance (\$100,000). Identification of the account as a bond redemption account is sufficient for per bondholder coverage, provided each bondholder's interest is ascertainable.

Bondholders will be insured up to the limit of deposit insurance (\$100,000) in the aggregate for all bonds issued by the same issuer, regardless of whether there may be different series involved. The basis for this rule is that the issuer is considered to be the grantor of the express irrevocable trust of which bondholders are pro rata beneficiaries, and bonds in separate series of the same or a different bond issue are considered trust interests established by the same grantor which must be aggregated under 12 C.F.R. 330.13.

Funds held by or on behalf of an Indian Tribe

(For information regarding accounts held by or on behalf of individual Indians, please refer to Chapter 6: Accounts Held By An Agent, Nominee, Guardian, Custodian, Or Conservator).

Indian tribes are considered separate public units for the purposes of FDIC deposit insurance coverage.

Each official custodian of funds for an Indian Tribe as defined in 25 U.S.C. 1452(c), including an agency thereof having official custody of tribal funds, lawfully depositing the same in an insured depository institution shall be separately insured for (1) interest bearing accounts, up to the limit of deposit insurance (\$100,000) in the aggregate and (2) non-interest bearing accounts, up to the limit of deposit insurance (\$100,000) in the aggregate, regardless of the state in which the institution is located.

Collateralized Accounts

Certain liability accounts in a financial institution may be secured by institution owned securities, loans, or other types of assets. When the liability account is a deposit, the institution has pledged its assets (securities, loans, etc.) to secure the deposit(s) for the amount that exceeds the federal deposit insurance limit.

Financial institutions which pledge assets to secure a liability must be in compliance with the appropriate state laws.

Typically, the Claims Specialist will know whether there are assets pledged to collateralize public units because of the pre-closing process. Refer to the Claims Manual Volume I, Section III Chapter C: Preparation of Claims Strategic Resolution Plan for additional information.

When an institution fails, the deposit is first protected by federal deposit insurance and then by the market value of the pledged assets, but only to the extent that the deposit exceeds the insured amount.

At closing, the Claims Specialist will need to prepare a list of liability accounts (including deposits) which are believed to be secured by pledged assets. This list will be provided to the DRR Accounting Operations Closing Team, who, in turn, forward it to the DRR Analysis and Evaluation Section in Washington, D.C. to obtain the market value of any pledged assets. Refer to the Claims Manual Volume I, Section IV Chapter O: Secured Accounts/Preferred Claims for additional information.

Legal Review

Because of the potential complexities relating to public unit account issues, the Claims Specialist may wish to consult with the Legal Division prior to finalizing a deposit insurance determination for a public unit.

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature cards, CD's, and/or other account records which expressly disclose that an account is a public unit account.
 2. Declaration for Public Unit Deposit. (Declaration for Public Unit Deposit).
 3. Documentation (relevant statute, ordinance, or other authority) provided by the official custodian to support his appointment or election to serve as the official custodian.
 4. Copy of Trust/Bond Indenture, if one exists, or a copy of the ordinance permitting the issuance of the bonds if there is no trust, such to be provided by the official custodian.
 5. Institution's security/pledged records.
 6. Copy of pledge agreements.
 7. List of accounts which are determined to be secured by pledged securities or other assets (prepared by Claims).
 8. Securities spreadsheet provided by DRR Analysis and Evaluation Section in DC with market values.
 9. Records (provided by the official custodian) which show the owner(s) of the bonds on the date of institution closing, the amount of bonds which each holder owns, and the total amount of bonds outstanding.
 10. Copy (provided by the official custodian) of the state statute authorizing the creation of a subdivision or principal department of a public unit.
 11. Copy of the RLS uninsured depositor analysis form.
 12. Copy of the RLS final grouping report for the group.
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Examples of Insurance Coverage

Example 1: Scenario**Partially Insured**

One deposit account.

Situation

City of Bucket, Texas has a CD in ABC Bank located in Bucket, Texas. The balance of the CD at the time ABC Bank is closed totals \$100,030.

Analysis/Determination

The Claims Specialist obtains the phone number for the official custodian of the City of Bucket from the bank's records, contacts the official custodian, and requests that he fill out the Declaration for Public Unit Deposit form and provide the appropriate documentation as requested on that form. The Claims Specialist also reviews the bank records and finds that no securities were pledged to the City of Bucket or any other public unit with deposits at the failed institution. The Claims Specialist reviews the submitted Declaration for Public Unit Deposit form. In a conversation with the official custodian, the official custodian acknowledges that they are aware that their deposit exceeds the deposit insurance limit. That comment is consistent with what the Claims Specialist has found in the bank's records. Therefore, the account is insured to \$100,000 and a Receivership Certificate is issued for the uninsured amount of \$30.00.

Example 2: Scenario**Insured/ Secured**

One deposit account with pledged collateral.

Situation

City of Daily, Texas has a CD (interest bearing) in ABC Bank, Bucket, Texas. The balance of the CD at the time ABC Bank is closed totals \$170,000.

Analysis/Determination

From reviewing the Information Package (IP) provided by the Institution Sales Section of DRR prior to the closing, the Claims Specialist has reason to believe that there were securities pledged to secure the City of Daily account. However, the IP did not disclose the market value of the collateral. The Claims Specialist contacts the official custodian of the City of Daily and asks that the official custodian fill out and execute the Declaration for Public Unit Deposit form and provide the documents as requested on the form. The official custodian complies with that request. The Claims Specialist obtains copies of the pledge agreements from the bank's records. The Claims Specialist reviews the records of the bank and prepares the list of accounts secured by pledged securities. This list contains the account of the City of Daily. He forwards the list to the DRR Accounting Operations Closing team. From this information, DRR Accounting Operations prepares a securities spreadsheet and forwards it to the DRR Analysis and Evaluation Section in Washington, D.C. so that they can provide the market value of the pledged assets as of the date of institution closing. When the securities spreadsheet is returned by the DRR Analysis and Evaluation Section, the market value of the collateral for the City of Daily account is shown to be \$100,000.

The first \$100,000 of the deposit is insured. Since the market value (\$100,000) of the collateral is greater than the amount of uninsured deposit (\$70,000), \$70,000 is paid to the City of Daily by the receiver once the proceeds from the sale of the collateral have been received. (See the Claims Manual Volume I, Section IV, Chapter O: Secured Accounts/Preferred Claims for information concerning the liquidation of pledged assets.) Therefore, the City of Daily has received 100% of their funds.

Example 3:

Scenario

Partially Insured

Interest and non-interest bearing deposits/multiple custodians/out-of-state financial institution.

Situation

City of Putty, Texas has the following accounts in the First Bank of Arkansas, Little Rock, Arkansas at the time of failure:

- CD #123 (interest bearing) totaling \$100,000.
- DDA #456 (non-interest bearing) totaling \$100,000.
- CD #987 (interest bearing) totaling \$100,000.
- DDA #246 (non-interest bearing) totaling \$100,000.

Analysis/Determination

The Claims Specialist contacts the City of Putty and discovers that there are two official custodians for the accounts. Brian Denver is the official custodian for CD #123 and DDA #456. Pete Patter is the official custodian for CD \$987 and DDA #246. The Claims Specialist requests that they each fill out and execute the Declaration for Public Unit Deposit form and provide the appropriate supporting documents. They comply with that request. In reviewing the situation, the Claims Specialist realizes that the official custodians have placed public unit funds outside of the state in which the public unit resides.

In order for the City to receive separate insurance coverage for interest bearing and non-interest bearing accounts, the funds must be deposited in an institution (or branch) located in the same state as the public unit. Since the accounts were deposited into an institution outside of the public unit's location, they are not entitled to separate insurance for interest bearing and non-interest bearing accounts.

Public funds maintained in an out-of-state institution, whether interest bearing or non-interest bearing, are limited to a maximum of \$100,000 per official custodian. Therefore, the funds held by Brian Denver for the City of Putty are added together and insured for \$100,000 and the funds held by Pete Patter are added together and insured for \$100,000.

Two (2) Receivership Certificates are issued for \$100,000 each, representing the uninsured portion of each group of accounts held by the respective official custodian.

Example 4:

**Partially
Insured/
Partially
Secured**

Scenario

Pledged collateral/multiple official custodians.

Situation

City of Salvation has 5 DDAs (non-interest bearing) in ABC Bank at the time of failure. Each account has a balance of \$200,000.

Analysis/Determination

The Claims Specialist reviews signature cards on each account and determines that each account has a different official custodian. The Claims Specialist requests each official custodian complete the Declaration for Public Unit Deposit form and provide supporting documentation. From the bank's records, the Claims Specialist finds a copy of the pledge agreement. The Claims Specialist notes that the collateral was not pledged to specific accounts of the City of Salvation, but rather just to the City. The Claims Specialist prepares the list of

accounts secured by pledged securities and forwards it to the DRR Accounting Operations Closing team. DRR Accounting Operations prepares the securities spreadsheet and forwards it to the DRR Analysis and Evaluation Section, which provides the market value of the securities on the date of the bank's failure. The market value of the pledged assets totals \$250,000.

The Claims Specialist insures \$100,000 to each official custodian and calls the official custodians for a meeting. Since the pledged assets are not specifically pledged to specific accounts of the City of Salvation, the Claims Specialist (after consulting with the Legal Division) tells the official custodians they have a deadline to determine how they want the collateral split between the 5 accounts. The Claims Specialist further tells them that if the official custodians cannot agree on how to split the securities within the allotted time frame, he will divide the pledged assets evenly - splitting the securities \$50,000 to each official custodian and then issue a Receivership Certificate for \$50,000 for each account that has uninsured funds.

The Claims Specialist does not hear back from the official custodians and therefore he proceeds with the process as he had indicated in the meeting with the official custodians. Therefore, \$500,000 is insured, \$250,000 is paid to the official custodians (\$50,000 each) once the proceeds from the sale of the collateral has been received, and five separate Receivership Certificates, each for \$50,000 made payable to each official custodian, are issued.

Example 5: Scenario

Fully Insured In-state branch of an out-of-state headquartered financial institution.

Situation

The Bank of New York has a branch in Kentucky. The City of Silva, Kentucky deposits \$100,000 into CD #989 (interest bearing) and \$100,000 into their checking account #767 (non-interest bearing) at the Kentucky branch. The Bank of New York is closed.

Analysis/Determination

The Claims Specialist contacts the official custodian of the City of Silva and requests that he fill out and execute the Declaration for Public Unit Deposit form and provide supporting documentation. The official custodian does so. The Claims Specialist reviews that information and from the bank's records determines that there is no collateral pledged to secure any of the City of Silva deposits.

Public entities located in the same state as the failed institution (including a branch in the same state as the public unit, even though the bank is chartered in a different state) can have up to \$200,000 deposit insurance coverage per official custodian. Deposit insurance allows \$100,000 for non-interest bearing accounts and \$100,000 for interest bearing accounts.

Therefore, the City of Silva is fully insured for \$200,000.

Example 6:**Scenario****Partially Insured**

Bond sale proceeds.

Situation

The City of Dallas, Texas issued \$1,000,000 in bonds. The City has not yet spent all of the funds for the designated project. Therefore, \$600,000 of the bond proceeds are on deposit in a checking account at the Lonely Star Bank of Dallas, Texas, when that bank fails.

Analysis/Determination

The Claims Specialist contacts the official custodian of the City of Dallas who fills out and executes the Declaration for Public Unit Deposit form and provides supporting documentation. The official custodian also provides a list of investors who purchased the bonds. The Claims Specialist reviews the records of the failed bank. There is no collateral pledged to secure the City of Dallas funds. In a conversation with the official custodian, it is mentioned that the funds in the account are not funds earmarked for bond redemption purposes. The Claims Specialist then decides to discuss this situation with the Legal Division. It is agreed that the account is insured for \$100,000 and a Receivership Certificate is issued for the remaining \$500,000.

Note: Had the funds in the account been for bond redemption purposes, those funds would have been insured in accordance with 12 C.F.R. 330.13, i.e., the investors would have been insured on a pro rata basis. In that scenario, the investor list provided by the City of Dallas would have been reviewed. Suppose that one of those investors, John Smith, had purchased \$100,000 of the \$1,000,000 bond. Therefore, he would have a 10% interest, or \$60,000 interest, in the \$600,000 deposit. John Smith's interest - \$60,000 - would have been fully insured.

Example 7: Scenario**Fully Insured** Federal government deposits.**Situation**

At the time of the failure of Cornhusker State Bank, Lincoln, Nebraska there are two accounts of the U. S. Department of Agriculture – a checking account with \$89,000 and a CD with \$75,000.

Analysis/Determination

The Claims Specialist finds the name of the contact for the two accounts from the records of the failed bank. He calls the contact who advises that he is the official custodian of the accounts. The Claims Specialist has him fill out and execute the Declaration for Public Unit Deposit form. After reviewing that form, the Claims Specialist advises the official custodian that the accounts are fully insured since the checking account was non-interest bearing and the CD was interest bearing.

Chapter 15

Department of Energy Accounts

Contents

This chapter contains the following information on Department of Energy ("DOE") Accounts:

Topic Title	Page Number
<u>Overview</u>	<u>15-1</u>
<u>Policy Statement</u>	<u>15-1</u>
<u>Legal Reference</u>	<u>15-1</u>
<u>Definitions</u>	<u>15-2</u>
<u>Insurance Determination</u>	<u>15-2</u>
<u>Documentation</u>	<u>15-2</u>
<u>Examples of Insurance Coverage</u>	<u>15-3</u>

Overview

The law provides for separate insurance coverage for certain DOE accounts deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program ("BDFAP") into another insured depository institution.

Policy Statement

It is the policy of the FDIC to make deposit insurance determinations in accordance with the Rules and Regulations promulgated pursuant to the Federal Deposit Insurance Act (FDI Act) and applicable statutes.

Legal Reference

Funds deposited pursuant to the Bank Deposit Financial Assistance Program are insured in accordance with the FDI Act at 12 U.S.C. 1817 (i)(3).

Definitions

Bank Deposit Financial Assistance Program for the Department of Energy (“BDFAP”)

A program in which the DOE provides funds to a select group of “trustee” banks for deposit in minority-owned banks. Those funds, in turn, are lent to minority and women-owned businesses.

Insurance Determination

DOE funds shall be insured as a separate category of insurance in the amount up to the limit of deposit insurance (\$100,000) per insured depository institution depositing such funds, provided that the account records of the failed financial institution indicate that the funds are held by the depositing financial institution in a custodial or special capacity for the DOE pursuant to the BDFAP.

Normally, an account is established at an insured financial institution by another financial institution for DOE. The account could be titled “John Brown Bank as Agent for DOE” or “Big Mountain Bank as Custodian for DOE.” Such designations are sufficient to provide insurance coverage under this category of ownership up to the limit of deposit insurance because such designations disclose the existence of a custodial or special capacity, i.e., the relationship upon which the payment of deposit insurance is based.

DOE funds not deposited pursuant to BDFAP are insured as a public unit (for a discussions of deposit insurance coverage relating to public unit, see [Chapter 14: Public Unit Accounts.](#))

Documentation

Documentation to be reviewed and/or utilized in making the deposit insurance determination may include the following:

1. Signature card(s) and/or certificate of deposit records of the failed institution.
2. Uninsured depositor analysis form for the group (from RLS).
3. Final grouping report for the group (from RLS).

If the Claims Specialist has reason to believe that the funds are not deposited pursuant to BDFAP, he may require additional documentation.

Examples of Insurance Coverage

Example 1: Scenario

Fully Insured A mix of BDFAP and direct DOE deposits at failed financial institution.

Situation

Big Mountain Bank set up an account at the failed financial institution titled "Big Mountain Bank Custodian for Department of Energy" for \$80,000. DOE also has a demand deposit account with a balance of \$50,000.

Analysis/Determination

The Claims Specialist notices the title of the account - "Big Mountain Bank Custodian for Department of Energy" and realizes that the funds of \$80,000 in this account are insured under the provisions of this chapter as a BDFAP account. The amount is fully insured since it is less than the limit of deposit insurance (\$100,000). In addition, the DOE demand deposit account of \$50,000 is insured separately as a public unit account (see [Chapter 14: Public Unit Accounts](#)). It also is fully insured since it is less than the limit of deposit insurance under the public unit category of ownership.

Example 2: Scenario

Fully Insured Multiple banks with deposits made pursuant to the BDFAP at the failed financial institution.

Situation

South Ocean Bank set up an account at the failed financial institution titled "South Ocean Bank as Agent for the Department of Energy" for \$40,000. Bear Bank also set up an account at the failed financial institution entitled "Bear Bank Custodian Department of Energy" for \$90,000.

Analysis/Determination

In reviewing the account titles, the Claims Specialist realizes that the "South Ocean Bank as Agent for Department of Energy" account for \$40,000 and the "Bear Bank Custodian Department of Energy" account for \$90,000 are insured under the provisions of this chapter as BDFAP accounts. Each account was found to be in compliance with 12 U.S.C. 1817 (i)(3). The two accounts were set up by separate financial

institutions acting as custodian for DOE. Therefore, both accounts are fully insured.

Example 3:**Scenario****Partially Insured**

A mix of BDFAP and DOE accounts at the failed financial institution.

Situation

Hope Bank set up an account at the failed financial institution titled "Hope Bank Agent for the Department of Energy" for \$86,000. DOE also has a demand deposit account with a balance of \$150,000.

Analysis/Determination

The "Hope Bank Agent for Department of Energy" account for \$86,000 is insured under the provisions of this chapter as a BDFAP account and is fully insured. The DOE demand deposit account of \$150,000 is reviewed as a public unit account (see [Chapter 14: Public Unit Accounts](#)) and is insured for \$100,000. A Receivership Certificate is issued for the uninsured amount of \$50,000.

Appendix A

Glossary

A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X

A

Account Hold

A hold placed on a deposit account by the FDIC to retain control of all or part of the depositor's account until some issue regarding the depositor or the account can be resolved.

Accounts Payable

Amounts owing on an open account to creditors for goods and services.

Accrued Interest

- (1) Payable - Interest earned but not yet paid. When an institution fails prior to the end of an interest payment date, the balance of the account for insurance purposes includes the interest, which has accrued through the date of the institution failure.
- (2) Receivable - Interest charged to a loan but not paid by the customer. Generally the interest is reported as income within the institution's books and shown as a receivable.

ACH

Automated Clearing House – A computerized facility used by member depository institutions to process (i.e., combine, sort, and distribute) payment orders in machine-readable form (computer tapes or punched cards).

Acquiring Institution

This is the term for the financial institution taking over some or all of the business of a failed institution.

ADR

Alternative Dispute Resolution – refers to all forms of dispute resolution other than court adjudication. A broad range of ADR processes exist, from the most common mediation, arbitration to various hybrids, such as minitrials, summary jury trials, and early neutral evaluation.

Affiliate

Any organization that a financial institution owns or controls by stock holdings, or which the financial institution's shareholders own, or whose officers are also directors of the financial institution.

Agent

A person authorized by another person, called the principal, to act on the latter's behalf in transactions involving a third party. The following three characteristics apply to an agent:

- Acts on behalf of and is subject to the control of the principal
- Does not have title to the principal's property
- Owes the duty of obedience to the principal's orders.

Financial institutions are frequently appointed by individuals to be their agents, and authorize their employees to act on behalf of principals.

Agent Institution

A financial institution authorized by the FDIC to make a final distribution of insured deposits and, in some instances, to purchase certain assets of the closed institution.

Aggregate

Combining accounts by ownership rights and capacities for deposit insurance purposes.

AI

Agent Institution or Assuming Institution or Acquiring Institution, depending on the type of agreement. This is the term for the financial institution taking over some or all of the business of the failed institution.

Amendment

Addition to, or change in, a legal document. When properly signed it has the full legal effect of the original document.

AP or A/P

Accounts Payable – amounts owing to creditors for goods or services.

ARM

Adjustable Rate Mortgage. Mortgage, which contains predetermined adjustments of the interest rate at specified intervals. Interest rate is tied to some index outside the control of the financial institution, such as the interest rates on U.S. Treasury bills or the average national mortgage rate. Adjustments are made regularly, usually at intervals of 1, 3, or 5 years.

ARP

Accelerated Resolution Program. Used by the Resolution Trust Corporation (RTC) to describe the resolution of a failing institution in which the institution was not first placed into a Conservatorship or Pass-Through Receivership.

Asked Price

The trading price proposed by a prospective seller of securities.

Asset

Anything having commercial or exchange value that is owned by a business, institution, or individual.

Assign

To transfer ownership from one party to another. Property assigned can be in a number of forms, including tangible property, rights, or the right to transfer ownership at some later date.

Assuming Institution

This is the term for the financial institution taking over some or all of the business of a failed institution.

Assumption

The act of taking on responsibility for the liabilities of another party, usually documented by an assumption agreement. In the case of a mortgage assumption, the seller remains secondarily liable unless released from the obligation by the lender.

At Par

At a price equal to the face, or nominal, value of a security. (See also par value.)

Auction Market

The system by which securities are bought and sold through brokers on the securities exchanges, as distinguished from the over-the-counter market, where trades are negotiated.

[Back to top](#)

B**Balance Sheet**

A financial report, also called Statement of Condition or Statement of Financial Position, showing the status of the company's assets, liabilities, and owners' equity as of a given date, usually at the close of a month.

Bankruptcy

State of insolvency of an individual or an organization; the inability to pay debts.

Bank Wire

Computerized message system owned and administered by participating banks in the U.S., which typically transmits large dollar, credit transfer information like the FED wire.

Bar Date

The date, usually 90 calendar days after the receiver's initial publication of the notice to creditors to present their claims, after which further rights of creditors to make claims against the Receivership may be disallowed or barred.

Beneficial Interest

Interest or right of a person who is to receive benefits under a trust, will, or similar transfer of property.

BIA

Bureau of Indian Affairs. A bureau within the U.S. Department of Interior. In financial institution documents, BIA refers to the accounts holding deposit interests of American Indians.

Bid Price

A price offered by those wishing to buy given stocks, bonds, notes, or other assets.

BIF

Bank Insurance Fund. Established by FIRREA for use by the FDIC in paying insurance related expenses for Receiverships of Bank Insurance Fund members (i.e., banks, thrift and loan associations, etc.).

BIS

Business Information Systems. That component part of DRR with information technology responsibilities at a financial institution failure; a particularly important group during the closing phase of a financial institution failure because they ensure that the failing institution's computer-based deposit and other information can be read, understood, and used by the FDIC's computer-based systems.

Bond

Any interest-bearing or discounted government or corporate security that obligates the issuer to pay the bondholder a specified sum of money, usually at specific intervals, and to repay the principal loan amount at maturity.

Bond Rating

Method of evaluating the likelihood of default by a bond issuer. Standard & Poor's, Moody's Investors Service, and Fitch's Investors Service are three bond rating agencies which analyze the financial strength of each bond's issuer, whether it is a corporation or a government body.

Book Value

A value at which an asset is carried on a balance sheet. At times, the value could be its cost minus accumulated depreciation.

Borrowed Reserves

Funds borrowed by member banks from a Federal Reserve Bank for the purpose of maintaining the required reserve ratios.

Bridge Bank

A chartered national bank that operates under a Board of Directors appointed by the FDIC; it assumes the deposits and certain other liabilities and purchases certain assets of one or more failed banks.

Broker

A person who acts as an intermediary between a buyer and seller, usually charging a commission. (Also see Deposit Broker.)

Brokered Deposit

Deposits placed by a Deposit Broker. The FDIC places special restrictions and regulations on financial institutions concerning the acceptance and insurance of these accounts.

Business Day

A day other than a Saturday, Sunday, or legal holiday.

By Laws

Rules governing the internal management of an organization which, in the case of business corporations, are initially drawn up at the time of incorporation.

[Back to top](#)

C**CAC**

Collections After Closing. Preferred claims for deposits made prior to the financial institution's closing, which were collected after the date of closing.

Case

A comprehensive memorandum in a specific format prepared when requesting authority to take a proposed action (e.g., compromise, foreclosure, sale of an asset, payment of dividends, termination of a Receivership). The case is written to the person who has the authority to approve the proposal.

Cash

Asset account on a balance sheet representing paper currency and coins, negotiable money orders and checks, and bank balances.

Cash Dividend

Cash payment to a corporation's shareholders, distributed from current earnings or accumulated profits and taxable as income. Cash dividends are distinguished from stock dividends, which are payments in the form of stock.

Cash Letter

An interbank transmittal form, resembling a deposit slip, used to accompany cash items sent from one bank to another for collection. Cash items include checks and deposit tickets with other control documents included.

Cash Method (or Basis)

An accounting method that recognizes interest income as it is collected rather than when it is earned (accrued).

Certificate of Deposit (CD)

A certificate issued by a financial institution stating that the named person(s) or entity have a specific sum of money on deposit, usually for a specified time period. Commonly referred to as a CD.

Charge-offs

Loans or other assets determined by the closed financial institution to be uncollectable and therefore taken off their General Ledger. These loans are worked by the FDIC, but are not included in the FDIC General Ledger.

Check Reconciliation System

See CRS.

Child

A person being the natural, adopted, or step-child of the owner of an account.

Claim Agent or Claims Specialist

Interchangeable terms. Claim Agent is most often used to refer to an FDIC employee or contractor, at a closing, who is interacting with depositors. Claims Specialist refers to an individual who is assigned any responsibilities referred to within the Claims Manual.

Claim Agent-in- Charge

The Claims person assigned the task of supervising the Claim Agents and who is responsible for the accuracy of all Claims actions performed at a closing.

Claim Number

The number assigned to a liability when the stratification process is completed.

Clear

To Clear...a Check – the return of checks to the bank on which they were drawn for payment....having passed through or having been collected by a clearinghouse.

Clearinghouse

Entity used to process funds for clearing checks or drafts that are transferred between banks not through the Federal Reserve System.

Closing

As it refers to a financial institution, the cancellation of a financial institution's charter to operate. The process of closing a financial institution. Typically done by the federal or state agency, which chartered the institution, though in certain circumstances the FDIC can close the financial institution.

CMO

Collateralized Mortgage Obligation. A derivative product of either mortgages or mortgage-backed securities that distributes the cash flows from the mortgages into several layers called tranches. Each tranche receives periodic interest payments at a fixed-rate based on the outstanding principal balances. The remaining cash flow is allocated to the first layer or "A Tranche" in the form of principal repayment. Cash flows are allocated in this manner until the "A Tranche" is completely paid. At that time, all excess cash flows are allocated to the next tranche, etc.

Collateral

Asset pledged to a lender until a loan is repaid. If the borrower defaults, the lender may have the legal right to seize the collateral and sell it to pay off the loan.

Collected

As in Collected Funds. Cash or checks deposited in the bank which have been presented for payment and for which payment has actually been received.

Collections after Closing

Deposits made at a failed institution prior to the closing of that institution which remain "uncollected" as of the date the institution is closed. These deposits are collected after closing.

Commercial Loan

A loan made for a business purpose. Frequently, a short-term renewable loan to finance the seasonal working capital needs of a business, such as the purchase of inventory or the production and distribution of goods.

Community Property

Funds of a husband-wife (community).

Compounded

Adding interest accrued for one period to the principal at the beginning of the next period and computing interest for the next period on the total interest plus principal.

Contingent Liability

The potential obligation of a guarantor or accommodation endorser; or the position of a customer who opens a letter of credit and whose account will be charged if a draft is presented. This also includes pending lawsuits, judgments under appeal, disputed claims, and the like, representing financial liability in the event of an adverse outcome.

Corporate and Other Business Accounts

Deposit accounts of a corporation, partnership, or unincorporated association, which is engaged in any independent activity. Corporate and Other Business Accounts comprise one of the ownership categories of insured deposits.

Corporate Purchase

Refers to the transaction where the FDIC in its Corporate capacity purchases assets from a Receivership.

Corporate Settlement

The process wherein the FDIC, in its Corporate capacity, passes insured funds to an acquiring institution, which, in turn, makes those funds available to depositors of the failed institution. Since final insurance determinations for all accounts may not have been made at the time of the initial wire transfer during the closing phase, the Corporate Settlement process provides for the FDIC to send additional funds to the acquiring institution or for the acquiring institution to return funds to the FDIC, depending on whether the initial insurance determination provided insufficient funds to the depositor or too many funds to the depositor. Claims is responsible for the Corporate Settlement process.

Corporation

A legal entity, separate and distinct from the individuals who own or manage it, with the capacity of continuous existence or succession, and having the capacity as a legal entity, of taking, holding and conveying property, suing and being sued, and exercising such other powers as may be conferred on it by law, just as a natural person may.

Correspondent Bank

A bank that provides settlement with the Federal Reserve and/or processing services for another financial institution. For Claims' purposes, it principally relates to check clearing functions.

Coupon

Interest rate on a debt security that the issuer promises to pay to the holder until maturity; expressed as an annual percentage of face value.

Coupon Rate

The stated annual interest rate on a debt instrument, as a percentage of its face value. Since bonds do not often trade at face value, the coupon rate seldom equals the yield on the bond.

CP

Corporate Purchase (of Receivership assets).

CPOC

Corporate Proof of Claim. A claim filed by the FDIC in its Corporate capacity against the Receiver for its preferred claim, the subrogated claim, and the assignment of the general creditor claims paid.

CRS

Check Reconciliation System. The system used by DRR/Accounting Operations to reconcile the checks issued during a payout.

Current Yield

A percentage rate calculated by dividing the annual interest on a bond by the market price. It is the actual income rate of return as opposed to the coupon rate or the yield to maturity.

CUSIP Number

Committee on Uniform Security Identification Procedures Number. The identifying nine-digit number that identifies a specific security. This number can be found on the safekeeping receipt.

Custodian

A person, bank, or other financial institution that keeps custody of individual or corporate assets.

[Back to top](#)

D**DDA**

See Demand Deposit Account for definition.

Declaration Date

The specified date for the payment of a dividend or interest.

Deferred Compensation

Compensation that has not yet been paid to an employee. These funds are solely the property and rights of the employer until they are made available to the participant or other beneficiary. The funds are only available to the participants through the general creditor process.

Defined Benefit Plan

Provides an employee with a fixed benefit upon retirement. Each year the employer contributes to the plan an amount determined by an actuary to be sufficient to fund the benefit fixed by the plan.

Defined Contribution Plan

A plan wherein contributions, whether by employer or employee, are determined by the plan (though the employer can change the terms of the plan at will). These contributions may be allocated to the various investment options within the plan. The following plans are always defined contribution plans: profit sharing plans, 401(k) plans, money purchase plans, thrift plans, savings plans, and employee stock ownership plans.

Demand Deposit Account

A non-interest bearing account balance which, without prior notice to the bank, can be drawn on by check, cash withdrawal from an automatic teller machine, or by transfer to other accounts using the telephone or home computers.

Demand Loan

Loan with no set maturity date that can be called for repayment when the lender chooses.

Deposit

The unpaid balance of money or its equivalent received or held by a bank in the usual course of business and for which it has given or is obligated to give credit. For legal definition, refer to 12 U.S.C. 1813(1).

Deposit Account Records

(For definition, refer to 12 CFR § 330(1) (d)). For regulation on account record keeping, see 12 CFR § 330.4. Records of the failed Institution which include:

- Signature cards
- Certificates of deposit
- Account ledgers
- Passbooks
- Some computer records
- Corporate resolutions authorizing accounts in the possession of the insured depository institution.

Deposit Broker

Any party engaged in the business of placing deposits, or facilitating the placement of deposits of third parties with insured depository institutions; or the business of placing deposits with insured depository institutions to sell interests in those deposits to third parties. Also, an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

Depositor Preference Statutes

Statutes which recognize claims of depositors prior to those claims of other types of general trade creditors for purposes of distribution of the failed institution's assets. The Federal Deposit Insurance Act, as amended, contains national deposit insurance preference for all Receiverships established after August 10, 1993 (12 U.S.C. 1821 (d)(II)). Depositor preference state statutes apply to receiverships established before August 10, 1993 for state chartered institutions.

Deposits Payable Solely Outside the U.S. and its Territories

Excludes any obligation of an insured depository institution which is payable solely at offices of such institutions located outside the U.S. and its territories from being a "deposit" for purposes of the deposit insurance regulations.

Direct Payout

Occurs when a financial institution fails and the FDIC, in its corporate capacity, pays the insured deposits up to the deposit insurance limit directly to the depositors. There is no Assuming Financial Institution or Agent Financial Institution. Also see Payout.

Discount

The method whereby interest on a bank loan or note is deducted in advance. It is the difference between a bond's current market price and its face or redemption value. For U.S. Treasury bills and other discount securities, the term means the security has no stated interest rate, is sold at a discount price, and is redeemed at maturity for full face value.

Discount Yield

The annual percentage rate of return on a security sold at a value less than its face value. Example: U.S. Treasury Bills sold at \$9,750 and maturing at \$10,000 in 90 days, for instance. To figure the annual yield, divide the discount (\$250) by the face amount (\$10,000) and multiply that number by the appropriate number of days in the year (365) divided by the number of days to maturity (90):

$$\frac{\$250}{\$10,000} \times \frac{365}{90} = .025 \times 4 = .10 = 10\%$$

Discovered Liabilities

Liabilities that were not listed in the books of the failed institution at the time of closing, but were identified afterward.

Discretionary Payment

Payment made under 12 U.S.C. 1821 (i)(3)(A) and then assigned and subrogated to Corporation.

DITA

Deposit Insurance Transfer Agreement. Transaction where only insured deposits are transferred to an acquiring institution.

DITAPA

Deposit Insurance Transfer and Asset Purchase Agreement. Transaction where only insured deposits are transferred to an acquiring institution who also purchases select assets.

Dividend

As it relates to a receivership, typically a pro rata distribution, to depositors and proven creditors, of net proceeds after converting assets of a failed institution to cash and after providing cash for anticipated future operating needs of the receivership.

DOF

Division of Finance. Formerly Division of Accounting and Corporate Services (DACS). The accounting/finance division of the FDIC.

DPC

Dividend Priority Code - Codes used within the Receivership Liability System (RLS) and DPS (Dividend Processing System) to designate the dividend payment priority of a claim as established by DRR/Accounting Operations per statute.

DPS

Dividend Payment System. Computer based system used by DRR Accounting Operations to pay receivership dividends. Has certain automatic interface capabilities with RLS.

DRR

Division of Resolutions and Receiverships (formerly DAS, DOL, and/or DOR).

DSC

Division of Supervision and Consumer Protection. That division of the FDIC which combined the responsibilities of the former Division of Supervision (DOS) and the former Division of Compliance and Consumer Affairs (DCA). DSC supervises and examines FDIC insured depository institutions in accordance with law and agreement with other federal regulatory agencies.

DTC

Depository Trust Company, also known as The Depository Trust & Clearing Corporation (DTCC).

Due Date

Date is 180 days after completed proof of claim (POC) is received. Claim must be processed and be allowed or disallowed by this date or an extension requested.

[Back to top](#)

E**EFT**

Electronic Funds Transfer – a system using electronic means to transfer payment data and funds from an originator to a recipient's account at a receiving financial institution.

Employee Benefit Accounts

Deposit accounts representing non-contingent interests of a beneficiary in an employee benefit plan. Employee Benefit Accounts comprise one of the ownership categories of insured deposits.

Employee Benefit Plan

A pension, profit-sharing, or stock bonus plan established by an employer or employee organization for the benefit of employees, including plans qualifying under Sections 401(a) or 401(k), of the IRS Code of 1954 (26 U.S.C. § 401(a), 401(k)), but does not include any plans qualifying under section 457 of the IRS Code of 1954 (26 U.S.C. § 457).

Employee Organization

Any labor union, organization, employee representation committee, association, group or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan, or other matters incidental to employment relationships. Also, it is any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

Equivalent Bond Yield

Comparison of discount yields and yields on bonds with coupons. Example: If a 10%, 90-day Treasury Bill with a face value of \$10,000 cost \$9,750, the equivalent bond yield would be:

$$\frac{\$250}{\$9,750} \times \frac{365}{90} = 10.40\%$$

Escheat

Reversion of property (e.g., land, account balances, insurance policies) to the appropriate state in the absence of legal heirs or claimants.

Escheatable

Abandoned property, possessions, and/or funds belonging to customers of a financial institution which, after a period of inactivity as set by state statute, are to be forwarded to the state treasury. However, deposit insurance funds that remain unclaimed do not escheat to the state. Deposit insurance funds are transferred to the state but, if they remain unclaimed for 10 years, are then returned to FDIC Corporate and become the property of the FDIC. (Receivership dividend checks are escheatable, since they do not represent deposit insurance funds.).

Excess Deposit

See Uninsured Deposit.

Excess Hold

A hold placed on the uninsured portion of a deposit account.

Executor/Executrix

Person designated to carry out the wishes of a deceased individual expressed in a will as to the administration of the decedent's estate and the distribution of the assets in it.

[Back to top](#)

F**Face Value**

Value of a bond, note, mortgage, or other security as given on the certificate or instrument.

Failed Financial Institution

A financial institution that was closed, generally by the agency which chartered it.

Fannie Mae

Nickname for the Federal National Mortgage Association.

FDIA

Federal Deposit Insurance Act – see <http://www.fdic.gov/regulations/laws/rules/1000>

FDIC

Federal Deposit Insurance Corporation

FDICIA

Federal Deposit Insurance Corporation Improvement Act of 1991

Federal Funds

Funds deposited by commercial banks at Federal Reserve Banks, including funds in excess of bank reserve requirements. Also, they are loans from one bank to another.

FHLB

Federal Home Loan Bank

FHLMC

Federal Home Loan Mortgage Corporation

FICA

Federal Insurance Contribution Act. Federal legislation requiring tax contributions from both the employer and employee to cover expenses of the Social Security benefit fund.

Fiduciary

A person holding a position of trust or confidence recognized by law.

Fiduciary Accounts Held by Failed Institution

Accounts held by the failed institution as agent or other fiduciary capacity. These fiduciary accounts comprise one of the ownership categories for deposit insurance purposes and are separately insured from other trust funds if they are separately maintained and not commingled with other deposits.

FIN

Financial Institution Number. The unique four-digit number assigned by the FDIC to a failed institution. (Also known as Bank Number.)

Final Settlement Date

A procedure specifically established and authorized in the Closing Agreement. The day by which monies due to/from the AI and FDIC as Receiver for Settlement items, must be paid.

FIRREA

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (enacted August 9, 1989). FIRREA added significant amendments to the Federal Deposit Insurance Act (FDI Act).

FIMS

Financial Information Management System. The FDIC's accounting system.

Fixed Asset

Tangible property, which will typically be used over a period of more than one year, that is used in the operations of a business and is not expected to be consumed or converted into cash in the ordinary course of events.

Float

The amount of time a bank takes to clear or reject (bounce) a check for payment; the time at which funds are debited from the issuer's account; checks in transit between banks and not yet paid; checks in the process of collection that remain conditional credits in a depositor's checking account until the checks are paid to the bank.

Foreign Currency Deposits

Deposits of foreign, but freely convertible, currency, maintained by any person or entity (regardless of nationality).

Foreign Exchange

Instruments employed in making payments between countries; currency, notes, checks, bills of exchange, and electronic notifications of international debits and credits.

FRB

Federal Reserve Bank

Financial Reporting Branch of DOF

Freddie Mac

Nickname for Federal Home Loan Mortgage Corporation (FHLMC). Mortgage-backed securities, issued in minimum denominations of \$25,000, that are packaged, guaranteed, and sold by the FHLMC. Mortgage-backed securities are issues in which residential mortgages are packaged and sold to investors.

FRF

FSLIC Resolution Fund. Established by FIRREA for the transfer of assets and liabilities of the former FSLIC. This is a separate fund maintained by the Corporation and used for insurance-related expenses of the Receiverships transferred to FDIC from FSLIC.

FSLIC

Federal Savings and Loan Insurance Corporation. Former agency responsible for insuring deposits of savings and loan institutions. Per FIRREA, FSLIC ceased to exist.

FUTA

Federal Unemployment Tax Act. Legislation requiring a tax (paid by employer) on employees that covers expenses of an unemployment benefit fund.

Futures Contract

Agreement to buy or sell a specific amount of a commodity or financial instrument at a particular price in a stipulated future month. The price is established between buyer and seller on the floor of a commodity exchange. A futures contract obligates the buyer to purchase the underlying commodity and the seller to sell it, unless the contract is sold to another before settlement date, which may happen if a trader wants to take a profit or cut a loss.

Back to top

G**GCR**

Gross Cash Recovery. Estimated amount of gross cash that will be received from the liquidation of an asset.

General Creditor

Individuals or entities that have a proven claim against the receivership estate. These include depositors with funds determined uninsured, unpaid proven claims for goods and services to the failed institution prior to closure, and valid contracts that were repudiated by the FDIC. Proven claims are fixed as of the date of closing. General creditors do not include shareholders of the failed institution since they were the owners of the institution and are therefore entitled to any proceeds once all proven creditor claims are paid in full.

GINNIE MAE

Nickname for Government National Mortgage Association. See also GNMA.

GINNIE MAE Pass- Through

Security backed by a pool of mortgages and guaranteed by the Government National Mortgage Association (GINNIE MAE), which “passes through” to investors the interest and principal payments of homeowners.

GNMA

Government National Mortgage Association. A government-owned corporation, nicknamed Ginnie Mae, within the U.S. Department of Housing and Urban Development, whose purpose is to serve low-to moderate income homebuyers.

Grandchild

The natural born, adopted, or step-child of a son or daughter.

GTC

General Trade Creditor. Any vendor or person to which the failed institution owed a debt at the time of closing.

Guardian

A person legally designated to act on the behalf of a minor or a person who is determined to be incapable of handling his or her own affairs.

[Back to top](#)

H**Holding Company**

Company that owns or controls one or more financial institutions or other holding companies.

[Back to top](#)

I**IBF**

See International Banking Facility.

IDT

Insured Deposit Transfer. An agreement in which the insured deposits of a failed financial institution are transferred to an Agent Financial Institution. The insured deposits are funded by the FDIC and the Agent Financial Institution acts as the FDIC's paying agent to insured depositors. All unclaimed deposits must be returned to the FDIC after 18 months.

Indenture

A formal agreement between an issuer of bonds and the bondholder covering such considerations as:

- Form of the bond
- Amount of the issue
- Property pledged (if not a debenture issue)
- Protective covenants
- Redemption rights or call privileges.

Independent Activity

For deposit insurance purposes, a corporation, partnership, or unincorporated association shall be deemed to be engaged in an "independent activity," if the entity is operated primarily for some purpose other than to increase deposit insurance.

Information Package

The compilation of financial information on a failing financial institution. The information package is divided into three sections:

- Open section, which contains basic financial information on the institution and is made available to potential bidders
- An appendix to the open section which contains supporting documentation
- A confidential section for FDIC use only.

Insured Deposit

The net amount due to a depositor for deposits in an insured depository institution less any part, which is in excess of the insurance limit. (For legal definition, refer to 12 U.S.C. 1813(1) and (m)).

Insured Depository Institution

A depository institution in which the deposits are insured pursuant to the Federal Deposit Insurance Act, including a foreign bank having an insured branch.

International Banking Facility (IBF)

A set of separate books and records of a financial institution, as authorized by federal law and regulations promulgated by the Federal Reserve, used for international banking transactions. IBF deposits are not deposits for deposit insurance purposes.

IRA

A qualified retirement plan, short for Individual Retirement Account. IRA accounts comprised a separate ownership category until December 19, 1993, after which they are insured with other self-directed retirement plans.

Irrevocable Trust Accounts

Accounts established by written instruments, such as a will, in which the settlor (creator of the trust) relinquishes all power to revoke the trust. Irrevocable trust accounts comprise one of the ownership categories of insured deposits.

Issue Date

The date when a new issue of securities is placed on sale.

ITF

In Trust For. Commonly used abbreviation in account titles to designate revocable (Totten) trust accounts.

[Back to top](#)

J**Joint Ownership Accounts**

Deposit accounts owned by two or more persons and meeting the following requirements:

- All co-owners are natural persons
- Each co-owner possesses withdrawal rights on the same basis
- Each co-owner has personally signed a signature card (unless the account is a Certificate of Deposit or is maintained by an agent, nominee, guardian, custodian or conservator). Joint ownership is one of the ownership categories of insured deposits.

[Back to top](#)

K**Keogh**

A qualified retirement plan for a self-employed individual established under Section 402 of the IRS Code, or any qualified retirement plan of a sole proprietorship or partnership. Keogh Accounts comprised one of the ownership categories of insured deposits until December 19, 1993, after which they are insured with other self-directed retirement plans.

[Back to top](#)

L**Letter of Credit**

Instrument or document issued by a financial institution guaranteeing the payment of a customer's drafts up to a stated amount for a specified period. A revolving letter of credit is issued for a specified amount and is automatically renewed for the same amount for a specified period permitting any number of drafts to be drawn, provided they do not exceed its overall limit. Sometimes abbreviated as LC or LOC.

Liability Register

A list of all deposit accounts.

Loan Hold

A hold placed on a depository account due to related past-due loans or the use of the account as collateral.

[Back to top](#)

M

Market Value

The amount a buyer is willing to pay for a security. The price at which buyers and sellers trade similar items in an open marketplace. In the absence of a market price, it is the estimated highest price a buyer would be warranted in paying and a seller justified in accepting, provided both parties were fully informed and acted intelligently and voluntarily.

Moody's Investors Services

One of the two best known bond-rating agencies in the country, the other being Standard & Poor's. Moody's also rates commercial paper, preferred and common stocks, and municipal short-term issues.

Mortgage

Debt instrument by which the borrower (mortgagor) gives the lender (mortgagee) a lien on real property as security for the repayment of the loan.

Mortgage Backed Certificate

A certificate issued by a holder of mortgages. Such certificates are secured by mortgages and guaranteed as to interest and principal.

Mortgage Backed Security (MBS)

Issues in which residential mortgages are packaged and sold to investors; investment securities representing an interest in a pool of mortgages or trust deeds. Payments on the underlying mortgages are used to make payment to the security holders.

Mortgage Pool

Group of mortgages having similar characteristics in terms of class of property, interest rate, and maturity. Investors buy participations and receive income derived from payment on the underlying mortgages.

Mortgage Servicing

Administration of a mortgage loan, including collecting monthly payments and penalties on late payments, tracking the amount of principal and interest paid at any particular time, acting as escrow agent for funds to cover taxes and insurance, and if necessary, curing defaults and foreclosing on collateral when the loan is seriously delinquent.

Municipal Bond

Debt instrument issued by a State or local government entity, its agencies or authorities, or a U.S. possession or territory.

Mutual Savings Bank

A state-chartered savings bank which is owned by its depositors and managed by a fiduciary board of trustees. For legal definition, refer to 12 U.S.C. 1813(f).

[Back to top](#)

N

NASD

National Association of Securities Dealers. A nonprofit organization formed under the joint sponsorship of the Investment Bankers' Conference and the Securities and Exchange Commission to comply with the Maloney Act security trading.

Natural Person

Human being. (See the FDIC Rules and Regulations, 12 CFR Section 330.1.)

Negotiable Instrument

An unconditional written promise to pay a specified sum of money at a specified date to the order of a specified payee or the bearer.

Nominee

A person or firm, such as a bank official or brokerage house, into whose name securities or other properties are transferred by agreement to facilitate transactions, although the customer remains the true owner.

Non-Contingent Interest

An interest capable of determination without evaluation of contingencies except for those covered by the present worth tables and rules of calculation set forth in life-expectancy tables published by the IRS.

NPS

National Processing System – formerly LAMIS. An internal loan processing system used to track receivership assets not being serviced by a contractor.

[Back to top](#)

O

OCC

Two meanings:

- Office of Corporate Communications (within the FDIC)
- Office of the Comptroller of the Currency - chartering and regulatory agency for National Banks.

Offset

The right which exists between two parties each of whom, under an independent contract, owes an ascertained amount to the other to set off their respective debts by way of mutual deduction.

Original Face Value

The original balance when a security is issued.

OTS

Office of Thrift Supervision. The regulator of federally chartered savings and loan associations.

Ownership Rights and Capacities

The legal basis for determining how accounts owned by the same person or entities are to be treated. The rights and capacities by which accounts are either aggregated or separated for deposit insurance purposes.

[Back to top](#)

P**P&A**

Purchase and Assumption Agreement. An agreement between an Acquiring Financial Institution and the FDIC, whereby the FDIC in its Receivership capacity transfers certain failed financial institution liabilities and simultaneously sells certain failed financial institution assets to the assuming financial institution.

Par Value

The nominal or face value of a security, stock, bond, or note expressed as a specific amount. Found on the safekeeping receipt.

Pass-Through Certificate

A security that represents an undivided interest in pools of mortgages. Principal and interest payments from the mortgagors are passed through to certificate holders as received. Since mortgagors may prepay mortgages, the pass-through payments to certificate holders fluctuate.

Pass-Through Security

A security backed by mortgages that passes through principal and interest payments to the security holders. Thus, payments vary in size, the principal is reduced as payments are made, and the final maturity of the securities is uncertain.

Pass With Hold (PH)

Deposit accounts transferred to the Assuming Institution but withheld from the depositor, until such time as a final insurance determination can be made. Usually done when it is believed that all funds are insured. Usually the depositor is required to furnish documentation (i.e., Pension/Profit Sharing Plans, trust documents, etc.).

PAV

Payment Authorization Voucher. An FDIC form used to generate payments to vendors and creditors of a Receivership.

Paying Agent

A financial institution is appointed paying agent after entering into an Insured Deposit Transfer Agreement. The paying agent is responsible for the payment of the failed financial institution's insured deposits.

Payout

The method of resolution in which the FDIC directly pays the depositors up to the insured limit. Claims and payment procedures may be done in person or by mail. Also see Direct Payout.

PH

See Pass With Hold.

Pledged Security

A security used as collateral to secure the liabilities of a financial institution, such as deposits of a public unit.

PLG

Professional Liability Group. Formerly PLU (Professional Liability Unit) or PLS (Professional Liability Section). That part of the FDIC Legal Division that seeks to recover losses suffered by a failed financial institution, due to negligence or fraud, from parties who breached the fiduciary duty/duty of care that they owed to the failed financial institution. Such parties include former directors and officers of the failed institution, and other professionals retained by the institution, such as attorneys, accountants, appraiser, and brokers.

POC

Proof of Claim. Typically, a standard form submitted by claimant, with supporting documentation which states the existence of and basis for a claim against a receivership.

Political Subdivision

Includes drainage, irrigation, navigation, improvement, levee, sanitation, school or power districts, and bridge or port authorities, and other special districts created by state statute or compacts between the states. Also includes any subdivision of a public unit.

POD

Payable on Death

Preclosing

Before the closing. May refer to Claims processes which are performed prior to the closing phase. May refer to goods provided or services rendered to an institution prior to its failure.

Preferred Claim

Claims based on a trustee and cestuique (beneficiary) trust relationship between the failed institution and claimant. Additionally, to be valid, specific property or cash proceeds must pass into the hands of the Receiver. An example of a preferred claim is the payment to a depositor through the collections after closing process.

Priority Claim

Any claim which, according to law, is provided a status above that of all other claims.

Probate

Judicial process whereby the will of a deceased person is presented to the court and an executor or administrator is appointed to carry out the will's instructions.

Pro Forma

A consolidated statement of condition consisting of the failed institution's general ledger separated into two parts. One part represents the assets purchased and liabilities assumed by the assuming institution, the other part represents the assets and liabilities retained by the FDIC.

PTR

Pass-Thru Receivership. Resolution process used by RTC in which selected liabilities of a failing institution were retained by a Receiver whereas most deposit liabilities and assets passed into a newly chartered thrift, which was then immediately placed into Conservatorship. This allowed the RTC time to manage the institution and prepare it for sale at a later date.

Public Unit

Any of the following: United States or a State, county, or municipality of the U.S. May also include a political subdivision of the foregoing, provided certain requirements are met.

Public Unit Accounts

Accounts of an official custodian of public funds, including funds belonging to the United States, a State, county, municipality, or political subdivision of the United States. Public unit accounts comprise one of the ownership categories.

Put-Back

Provisions in the closing agreement, which requires the Receiver to repurchase certain qualified loans from the AI. Also referred to as "Puts".

Back to top

Q**Quote**

An offer by a dealer to buy or sell at a stated price. A statement by a broker as to the value of a certain security.

Back to top

R**RC**

Receiver's Certificate. A document issued by the FDIC as receiver to legally evidence those with proven claims (including uninsured deposits) against the receivership. Holders of RC's are entitled to a distributive share of liquidation proceeds as set forth in applicable state or federal statutes.

Receiver

Court appointed person who takes possession of but not title to, the assets and affairs of a business or estate that is in a form of bankruptcy called Receivership or is enmeshed in a legal dispute.

Receiver Settlement

The process of handling adjustments, subsequent to the initial transfer of business and sale of assets, between the FDIC as receiver of a failed institution and an acquiring institution. Such adjustments may be the result of assets which have been “put back” by the acquirer to the receiver, subsequent purchases of assets (such as branches and equipment of those branches) by the acquirer from the receiver, and/or for other reasons. This process is based on the transactional documents (e.g. Purchase and Assumption Agreement) which outline the responsibilities and obligations of the receiver and acquiring institution. DRR Accounting Operations is responsible for this function. Not to be confused with Corporate Settlement.

Reclamation

Claim made by the U.S. Treasury against an institution that wrongfully accepted or cashed a U.S. Treasury check. For example, a Social Security check made payable to a deceased person and cashed by a descendant. The U.S. Treasury, from time to time, makes claims against the FDIC as receiver of a failed institution for U. S. Treasury checks which were wrongfully accepted or cashed by the failed institution prior to its failure.

Reconcile

To compare subsidiary ledgers and supporting documentation to General Ledger account balances for accuracy.

Redeterminations

Are used to perform insurance determination adjustments after, and in addition to, the group certified excess determination.

REMIC

Real Estate Mortgage Investment Conduit. A pass-through vehicle created under the Tax Reform Act of 1986 to issue multi-class mortgage-backed securities. Interest may be regular (debt instruments) or residual (equity interests).

REPO

Repurchase Agreement. An agreement between a seller and a buyer, usually of U.S. Government securities, whereby the seller agrees to repurchase the securities at an agreed upon price and usually at a stated time.

Retirement Plan

A qualified retirement plan is one which meets the requirements of Section 401(a) of the Internal Revenue Code. Can be either a defined benefit plan or a defined contribution plan.

Revocable Trust Accounts

Also known as Totten trusts. Deposit accounts owned by one or more persons evidencing an intention that upon the death of the owner(s), the funds would belong to the listed beneficiaries. Revocable Trust is one of the ownership categories of insured deposits.

RTC

Resolution Trust Corporation. A temporary corporation established by FIRREA to manage and resolve all conservatorships and receiverships of failed savings associations established on or after January 1, 1989, but prior to June 30, 1995, including those which were being managed by the former FSLIC. By law, the RTC ceased to exist on December 31, 1995, with all of its remaining work and responsibilities passing to the FDIC.

[Back to top](#)

S**Safekeeping**

Storage and protection of a customer's financial assets, valuables, or documents, provided as a service by an institution serving as Agent and, where control is delegated by the customer, also as custodian.

SAIF

Savings Association Insurance Fund. One of two deposit insurance funds established by FIRREA for use by the FDIC in paying deposit insurance.

SATF

Settlement Account Transaction Form. Generic name for various forms generated in STRS to effect adjustments between the Assuming/Agent/Acquiring Financial Institution and the FDIC as Receiver or the FDIC in its Corporate capacity.

SAV

Savings Account (SV)

SEC

Securities and Exchange Commission. A Federal agency created by the Securities Exchange Act of 1934 to administer that act and the Securities Act of 1933. In charge of the securities and commodities exchanges - the organized, national exchanges where securities, options, and futures contracts are traded by members for their own accounts and for customers' accounts.

Secured Claim

Deposit liabilities of a failed institution for which the institution had pledged its institution-owned securities or other assets to secure any amount (up to the market value of the security) that exceeds the insured amount.

Secured Deposits

Deposits, primarily those of public entities, secured by bank-owned securities or loans for the amount which exceeds the insurance limit.

Set Off

See Offset

Settlement

See Corporate Settlement and Receivership Settlement.

Settlement Jackets

Envelopes used to document the reconciliation of the failed institution's General Ledger accounts for the preparation of the Pro Forma Statement.

Settlor (or Grantor)

A person who creates a trust.

Single Ownership Accounts

Deposit accounts owned by one natural person. They include those in the owner's name; those established for the benefit of the owner by agents, nominees, guardians, custodians or conservators; and those established by a business that is a sole proprietorship.

SLAPA

Small Loan Asset Purchase & Assumption. Transaction where all deposits passed to an acquiring institution and the acquirer purchased all "small-dollar" loans as defined in the agreement. This is a pre-FIRREA transaction.

Sole Proprietorship

An unincorporated business in which all assets are owned by one person. Sole proprietorship accounts are aggregated and insured with other single ownership accounts of the individual.

SSN or SS#

Social Security Number

Standard & Poor's

Subsidiary of McGraw-Hill, Inc. that provides a broad range of investment services, including rating corporate and municipal bonds, common stocks, preferred stocks, and commercial paper.

STRS

Settlement Tickler Reconciliation System. Is a tool that creates, organizes, tracks, and reports information related to failed institution transactions and their related settlement activities.

Subrogation

The assumption by the FDIC of another's legal right to collect a debt or damages (file a claim).

[Back to top](#)

T**TAPA**

Total Asset Purchase & Assumption. Pre-FIRREA transaction where all deposits and all assets are assumed by an acquiring institution.

Tax Code

A one-digit code on the DPS system indicating if tax reporting (a 1099 sent to the payee/claimant and the IRS) is required when payments (i.e., dividends) are made. 0 = non-reportable and I = reportable.

Tenancy

Possession under right or title.

Testamentary

Relating to disposition of property after death. Property encompassing cash, land, and other assets of the deceased person. See also Totten and Revocable Trusts.

Time Certificate of Deposit

A certificate issued by a financial institution specifying the amount deposited, the rate of interest to be paid on the deposit, the term, and maturity date.

Time Deposit

A bank deposit which is payable in not less than 7 days.

TIN

Taxpayer's Identification Number

Totten

Revocable trust account created by depositing money for the benefit of another with the intention that the deposit pass to the beneficiary upon the depositor's death. See also ITF, Testamentary and Revocable Trust Accounts.

TRA

Tax Reform Act of 1986. This act increased employees' rights and benefits in qualified retirement plans by shortening the vesting schedule to a maximum of 7 years and reducing employee eligibility requirements to a 2-year maximum.

Treasuries

Negotiable debt obligations of the U.S. Government, secured by its full faith and credit and issued at various schedules and maturities.

Treasury Bills

Short-term securities issued by the U.S. with **original** maturities of 1 year or less issued at a discount from face value. Auctions of 91-day and 182-day bills take place weekly, and the yields are watched closely in the money markets for signs of interest rate trends. The Treasury also auctions 52-week bills once every four weeks. Treasury bills are issued in minimum denominations of \$10,000, with \$5,000 increments above \$10,000 (except for cash management bills, which are sold in a minimum of \$10 million blocks).

Treasury Bonds

Long-term debt instruments issued by the U.S. with maturities of 10 years or longer issued in minimum denominations of \$1,000.

Treasury Notes

Intermediate term securities issued by the U.S. with maturities of 1-10 years. Denominations range from \$1,000 to \$1 million or more. The notes are sold by cash subscription, in exchange for outstanding or maturing government issues, or at auction.

Trust

A transfer of property from one person, called the settlor or donor, to another person, called the trustee, who is to hold the property for a specified beneficiary or use.

Trust Department

Part of a financial institution engaged in settling estates, administering trusts and guardianships, and performing agency services.

Trust Estate

The determinable and beneficial interest of a beneficiary or principal in trust funds, but does not include the beneficial interest of an heir or devisee in a decedent's estate.

Trust Funds

Deposits received or held by a bank or savings association, whether held in the trust department or held or deposited in any other department of the institution.

Trust Interest

The interest (not including any interest retained by the settlor) of a beneficiary in an irrevocable express trust (other than an employee benefit plan) created either by a written trust instrument or by statute.

TT&L

Treasury, Tax & Loan. Banks frequently act as agents for the U.S. Treasury in establishing clearing accounts specifically for business deposits of payroll, income, and related federal tax obligations. Such deposits (TT&L) are periodically cleared (or swept) by the Treasury, often using Federal Reserve Banks as a clearing intermediary. Banks pledge U.S. Government notes to secure such deposits.

[Back to top](#)

U**UCC**

Uniform Commercial Code. A code of laws governing various commercial transactions, including the sale of goods, banking transactions, secured transactions in personal property, and other matters designed to bring uniformity in these areas.

UDAA

Unclaimed Deposits Amendments Act of 1993. See [Exhibit V-D-2: Federal Deposit Insurance Act \(FDIA\) as amended by the Unclaimed Deposits Amendments Act \(UDAA\)](#).

UID

Unclaimed Insured Deposits. See Unclaimed Deposits.

Uncollected Funds

The portion of a deposit made up of checks that have not yet been collected by the depository financial institution. Such checks have not yet “cleared” back to the financial institution on which the checks are drawn. A financial institution usually will not let a depositor draw on uncollected funds.

Unclaimed Deposit

Deposit insurance funded by FDIC-Corporate which remains unclaimed 18 months after an institution has failed.

Uninsured Deposit

Formerly known as Excess Deposit. Sometimes abbreviated as XX. The amount of a deposit which exceeds the insurance limit. Depositor receives a Receiver’s Certificate for the Uninsured amount.

[Back to top](#)

V**Vesting**

The attainment by a participant of a benefit right attributable to an employer's contribution in a pension or profit-sharing plan. Vesting can be immediate, gradual over time, or occur upon completion of a stated period of time in service or participation in the plan.

[Back to top](#)

W**Whole Bank**

Whole Bank Purchase and Assumption Transaction. An agreement between an AI and the FDIC, whereby the FDIC in its Receivership capacity sells all or a substantial majority of the failed institution's assets, usually at a discounted price, and transfers all or a substantial majority of the failed institution's liabilities to the AI.

Worthlessness Determination

Determination that the proceeds that can be realized from liquidation of a failed institution's assets are insufficient to satisfy all classes of claims and that, therefore, specified lower priority classes of claims are worthless. No dividend or distribution of those assets would ever be paid to the lower priority claims specified in the formal determination of worthlessness made by the Director, DRR, or his designee.

[Back to top](#)

X

XX or XS

An abbreviation sometimes used to designate an excess or uninsured deposit.

[Back to top](#)