
Insurance Products Examination Program

Examination Objectives

To determine the adequacy and effectiveness of the trust department's administration of insurance products. Consider whether:

- effective policies, procedures and internal controls have been established for the acceptance and administration of irrevocable life insurance trust accounts, including an annual review of each insurance policy;
- an effective audit, risk management and/or compliance process is in place that reviews the decision making process regarding the use of affiliated insurance products in discretionary accounts;
- policies and procedures ensure compliance with governing instruments, applicable law and accepted fiduciary principles;
- management and staff have the necessary expertise to assess insurance products; and
- when deficiencies are identified, corrective action is promptly initiated.

Examination Procedures

Wkp. Ref.

Level I

Level I procedures first focus on a review of the examination scoping materials. The next step consists of interviews with trust department personnel to confirm their qualifications and levels of expertise; to determine if the trust department's practices conform to written guidelines; to establish whether any significant changes in personnel, operations or business practices have occurred; or whether the new products and/or services have been introduced. If items of concern are uncovered during Level I procedures or if problems are identified during the preexamination monitoring and scoping; the examiner may need to perform certain Level II procedures.

1. Review examination scoping materials related to the administration of irrevocable life insurance trusts and the use of insurance products. Scoping material should include:
 - Risk profile
 - Relevant PERK documents
 - Previous trust and asset management examination report

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- Workpapers from the previous examination
- Examination reports of subordinate, functionally regulated entities
- Board and other applicable committee minutes

2. Evaluate the trust department's policies, procedures and practices related to irrevocable life insurance trust accounts and insurance products, noting any significant changes.
Consider:

- whether compliance with applicable law, standards of fiduciary conduct, governing instruments and policy are ensured;
- the process, including documentation, by which insurance companies and insurance policies are reviewed;
- the use of affiliates or other third parties to administer life insurance trusts or evaluate life insurance policies or companies;
- management of the conflict of interest issues surrounding the use of affiliated insurance products; and
- the handling of exceptions to policies and procedures.

3. Determine whether management and staff have the knowledge and expertise to administer life insurance trusts and other types of accounts that are invested in insurance products such as term, whole life, universal life and variable life policies and annuities.

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4. Review and evaluate the analysis, selection, approval and removal process with respect to insurance companies and their products and services when the trust department has investment discretion.

5. If the administration or evaluation of life insurance policies and products is outsourced to third parties, assess management's selection and oversight process. Consider whether:

- management's due diligence process is thorough, including assessing the qualifications and experience of the third party; and
 - the duties and responsibilities of the respective parties are set forth in a written agreement, including provisions relating to the content and frequency of reports and the authority to incur and pay expenses and compensation.
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6. Consider management's process for identifying conflict of interest issues when affiliated insurance products are used in discretionary accounts.

7. If affiliated life insurance products are used in discretionary accounts confirm that there is a process to assure that all the provisions of OTS TB 76-2 are met regarding state conflict of interest and prudent investment statutes.

8. Consider whether the following risk contributors (if applicable) have been addressed:

- Does management fully understand all aspects of risk with respect to irrevocable life insurance trust accounts and/or the use of insurance products in discretionary accounts?
- Are policies and procedures adequate?

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- Does management anticipate and respond well to market and technological changes?
- Is investment research and analysis sound?
- Are management information reports comprehensive and credible?
- Is the internal control environment adequate?
- Does management satisfactorily review and assess exceptions to policy?
- Does management quickly identify weaknesses and take appropriate action?
- Are there unresolved insurance product issues noted in audit, compliance or examination reports?

The completion of the Level I procedures may provide sufficient information to make a determination that no further examination procedures are necessary. If no determination can be made, proceed to Level II.

Level II

Level II procedures focus on an analysis of trust department documents such as reports and outsourcing contracts. The examiner should complete the appropriate Level II procedures when the completion of Level I procedures does not reveal adequate information on which to base a conclusion that the trust department meets the examination objectives. Neither the Level I nor the Level II procedures involve significant verification procedures.

1. If there are unresolved exceptions present from internal or external audit reports, compliance reports or examination reports, evaluate the reasons for their presence and management's plan for correction.

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2. Determine if there is a process to review discretionary accounts that have insurance policies as investments. Are policies reviewed to determine suitability? Are the following factors considered: the cost of the policy or product, unique terms, level of risk, financial stability of the issuer, liability issues and tax implications.

3. For irrevocable life insurance trusts, do the policies require that all crummy provisions are met, including timely notices to beneficiaries? Are the notices in conformance with applicable law and the governing document?

4. If third parties are engaged to administer life insurance trusts and/or products, is the performance of the third party periodically evaluated and the evaluation documented?

5. If necessary to validate an assertion, finding or concern arising from the completion of the Level I and II procedures, judgmentally select a limited number of accounts for review considering the degree of risk to the institution. Not all types of accounts need to be reviewed to arrive at a well-founded conclusion.

If the examiner cannot rely on the trust and asset management Level I or Level II procedures, or data contained in department records or internal or external audit reports to form a conclusion; proceed to Level III.

Level III

Level III procedures include verification procedures that auditors usually perform. Although certain situations may require that Level III procedures be completed, it is not the standard practice of Office of Thrift Supervision (OTS) examination staff to duplicate or substitute for the testing performed by auditors.

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1. From the discretionary account list, select a sample of accounts containing different types of life insurance policies or products. Consider the following:
 - The insurance policy is from a company on the trust department's approved list. If not, has a reasonable explanation been documented in the file?
 - Documentation is present to support the acceptance and/or purchase and ongoing analysis and valuation of the life insurance policy or product in view of the investment objective of the account.
 - Whether the purchase or retention of the life insurance policy or product is in accordance with applicable law. Does applicable state law remove liability from the trustee regarding life insurance trusts, and if so, to what degree?

2. Determine if the findings of the audit/compliance review are consistent with examination findings. If not determine the reasons for any discrepancy.

3. Determine if the trust department is holding any obsolete insurance policies.

4. Review a sample of policies from companies who are bankrupt, in default or have been downgraded by rating services to below investment quality.

5. Ensure that management purchases enough life insurance for the premiums paid.

6. Does management periodically review the client's health to ensure that premiums are not being paid for adverse health ratings?

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Examiner's UITRS Rating, Summary, Conclusions and Recommendations:

References - 870P

Laws

Code of Federal Regulations

12 CFR 550.240	Trust Powers
12 CFR 550.260	Investment of Funds Held as Fiduciary
12 CFR 563.41	Transactions With Affiliates
12 CFR 563.42	Transactions With Affiliates

Office of Thrift Supervision Publications

Other

Scott on Trusts, 3rd Edition
Bogert and Bogert, Trust and Trustees, 2nd Ed.
Restatement (Second and Third) of Trusts

Workpaper Attachments - 870P

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Optional Topic Questions

The following list of questions is offered merely as a tool and reference for the examiner and is not a required part of the examination process.

Policies and Procedures

<ul style="list-style-type: none">• Do the policies and procedures provide investment guidelines for the use of insurance products in discretionary accounts?
<ul style="list-style-type: none">• Do the policies and procedures address the criteria used in evaluating insurance companies, such as the rating agencies used and the acceptable ratings?
<ul style="list-style-type: none">• Do the policies and procedures address how insurance policies are to be evaluated?
<ul style="list-style-type: none">• Do the policies and procedures establish replacement/restructure criteria?

Acceptance and/or Purchase

<ul style="list-style-type: none">• Is the financial stability and performance of the insurance company considered?
<ul style="list-style-type: none">• Does management have sufficient expertise regarding insurance products when purchasing or evaluating policies and/or companies?
<ul style="list-style-type: none">• Is the anticipated term of the trust considered?

Annual and/or Periodic Review and Evaluation

<ul style="list-style-type: none">• Is an assessment of the life insurance carrier's solvency made?
<ul style="list-style-type: none">• Is suitability considered in light of the client's and the trust's objective(s)?
<ul style="list-style-type: none">• Has the grantor's medical condition remained the same?
<ul style="list-style-type: none">• Has the actual policy performed similarly to the policy illustrations and similar policies of peer companies with regard to dividend, expense and mortality perspective?
<ul style="list-style-type: none">• As part of the annual investment review for variable insurance products, is the savings association evaluating the underlying investment securities?
<ul style="list-style-type: none">• When appropriate, has the savings association recommended insurance policy restructure/replacement?
<ul style="list-style-type: none">• Do reviews comply with 12 C.F.R §§550.200 through 550.220?

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