# FDIC Seminar On Revocable Trust Accounts For Bankers

January 2012

# Outline

**Part 1 – Overview of Ownership Categories**

**Part 2 – Revocable Trust Accounts**

**Part 3 – Deposit Insurance Coverage Resources**

# PART 1

# OVERVIEW OF OWNERSHIP CATEGORIES

# Ownership Categories

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

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

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

# Ownership Categories

## Owners = Individuals

CATEGORY 1
SINGLE
ACCOUNTS

CATEGORY 2
JOINT
ACCOUNTS

CATEGORY 3
REVOCABLE
TRUST
ACCOUNTS

CATEGORY 4
IRREVOCABLE
TRUST
ACCOUNTS

CATEGORY 5
CERTAIN
RETIREMENT
ACCOUNTS

CATEGORY 6
EMPLOYEE
BENEFIT PLAN
ACCOUNTS

## Owner = Business/Organizations

CATEGORY 7
CORPORATION
PARTNERSHIP
UNINCORPORATED
ASSOCIATION ACCOUNTS

CATEGORY 9
PRINCIPAL & INTEREST
FUNDS IN
MORTGAGE SERVICING
ACCOUNTS

CATEGORY 10
NONINTEREST-BEARING
TRANSACTION ACCOUNTS

## Owners = Government Entities or Political Subdivisions

CATEGORY 8
GOVERNMENT
ACCOUNTS

# PART 2

# REVOCABLE TRUST ACCOUNTS

# Category 3 – Revocable Trust Accounts

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

**What is a revocable trust account?**

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

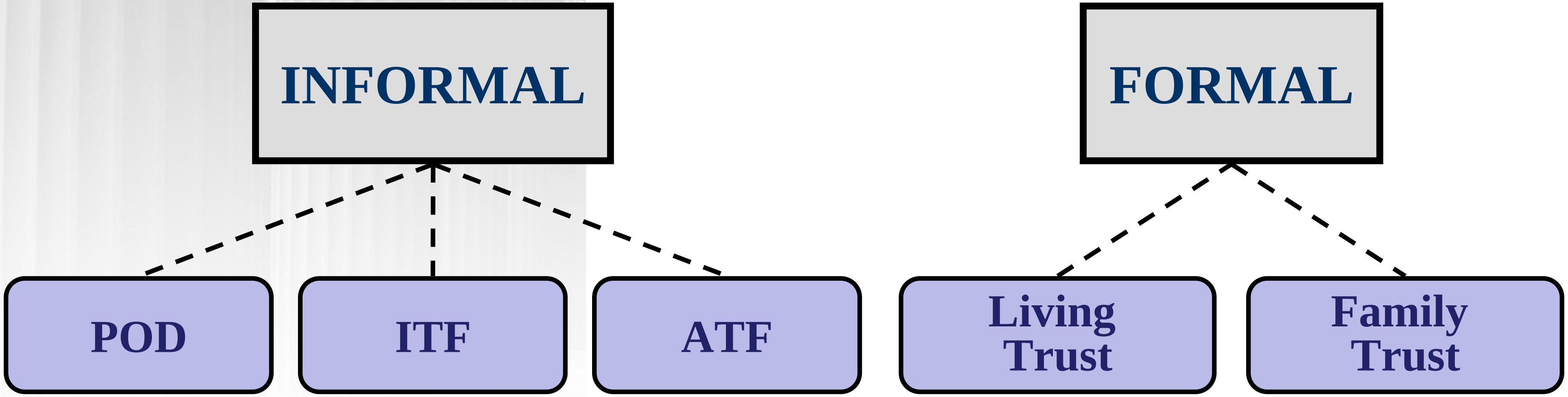
**What does revocable mean?**

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

**What are the types of revocable trusts?**

- Informal revocable trusts
- Formal revocable trusts

# Category 3 – Revocable Trust Account Types




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

**Account must be titled in the name of the formal trust**



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# Category 3 – Revocable Trust Requirements

## Updated on October 19, 2009!

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

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

# Category 3 – Revocable Trust Requirements

## Who is a beneficiary?

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

## Who or what can be a beneficiary?

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

# Category 3 – Revocable Trust Requirements

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

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

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

  If a deposit account is titled, as an example, **"John Smith POD to the John Smith Revocable Trust"** the FDIC will treat the deposit as an account in the name of the depositor's revocable trust (i.e., "the John Smith Revocable Trust")

# Category 3 – Revocable Trust Requirements

- Examples where pass-through deposit insurance coverage would apply because there is mutuality between the owner and POD designation:
  - A POD A's Revocable Trust
  - B POD B's Revocable Trust
  - A and B POD A and B's Revocable trust
- Examples where pass-through deposit insurance coverage would NOT apply because there is no mutuality between the owner and POD designation:
  - A POD B's Revocable Trust (Single Ownership Account)
  - B POD A's Revocable Trust (Single Ownership Account)

  If an invalid beneficiary is named, the account would revert to a single account and would be insured for up to $250,000 assuming the owner does not have any other single ownership accounts at the same bank

# Category 3 – Revocable Trust Coverage

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

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

   - Up to **$250,000 times the number of unique eligible beneficiaries** named by the owner. This applies to the combined interests for all beneficiaries the owner has named in all (both informal and formal) revocable trust deposits established in each bank

   - **The result is the same as above even if the owner has allocated different or unequal percentages or amounts to multiple beneficiaries.** To calculate the deposit insurance coverage, multiply $250,000 times the number of owners times the number of unique eligible beneficiaries



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# Category 3 – Revocable Trust Coverage

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

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

   - If the owner is attempting to insure more than $1,250,000 with **six or more unique eligible beneficiaries where the allocation to each and every beneficiary is equal,** the deposit insurance coverage is **$250,000 times the number of unique eligible beneficiaries**

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

# Category 3 – Revocable Trust Coverage

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

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

# Category 3 – Revocable Trust Calculation

## 1. Who are the owners of the trust account?

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

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

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

# Category 3 – Revocable Trust Calculation

## 3. Are the primary unique beneficiaries "eligible"?

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

## 4. Are the primary unique beneficiaries identified in the bank's deposit account records (for informal trusts) or in the trust agreement (for formal trusts) alive at the time a bank fails?

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

# Category 3 – Revocable Trust Calculation

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

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

1 beneficiary = up to $ 250,000 insurance coverage

2 beneficiaries = up to $ 500,000 insurance coverage

3 beneficiaries = up to $ 750,000 insurance coverage

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

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

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

# Category 3 – Revocable Trust Calculation

## 5. (Continued)

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

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

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

# Category 3 – Revocable Trust Calculation

6. **Does the owner(s) have any other revocable trust accounts in the same bank?**
   - In calculating deposit insurance coverage for revocable trusts, the FDIC combines the interests of all beneficiaries the owner has named in all formal and informal revocable trust accounts at the same bank
7. **Are the revocable trust accounts properly titled?**
   - The account title at the bank must indicate that the account is held pursuant to a trust relationship. This rule can be met by using the terms living trust, family trust, or any similar language, including simply having the word "trust" in the account title. For informal trusts, descriptive language such as POD or ITF must be in the account title
8. **Are any of the deposits held in noninterest-bearing transaction accounts?**
   - Deposits held in noninterest-bearing transaction accounts have unlimited coverage through December 31, 2012. In addition, any unique beneficiaries named on a noninterest-bearing transaction account will be considered in the total number of beneficiaries an owner has at a bank

# Category 3 – Revocable Trust Calculation

## Example 1:

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

**Beneficiary 1 = 1/6 to Sally**
**Beneficiary 2 = 1/6 to James**
**Beneficiary 3 = 1/6 to Amy**
**Beneficiary 4 = 1/6 to ABC Charity (IRS qualified)**
**Beneficiary 5 = 1/6 to John's College (IRS qualified)**
**Beneficiary 6 = 1/6 to XYZ Non-profit (IRS qualified)**
**-----------------------------------------------------------------**
**What is the maximum coverage?**

**Coverage is calculated as follows:**

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

# Category 3 – Revocable Trust Calculation

## Example 2:

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

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

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

**YES !**

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

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

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

# Category 3 – Revocable Trust Calculation

## Coverage Calculations for Six or More Beneficiaries with Unequal Allocations

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

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

# Category 3 – Revocable Trust Calculation

## Coverage Calculation Steps - Six or More Beneficiaries with Unequal Allocations

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

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

**Step 3** - Look at the result. If the result from Step 2 is less than or equal to $1,250,000 then the maximum insurable amount is exactly $1,250,000. If the result is greater than $1,250,000, then this amount represents the maximum amount that can be deposited using this trust agreement with no uninsured funds

# Category 3 – Revocable Trust Calculation

## Breakeven Calculation

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

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

# Category 3 – Revocable Trust Calculation

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

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

*Defaults to $1,250,000

# Category 3 – Revocable Trust Calculation

## Example 3:

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

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

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

**No!**

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

# Category 3 – Revocable Trust Calculation

**Example 3 (continued):**

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

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

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

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

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

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

# Category 3 – Revocable Trust Calculation

## Example 4:

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

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

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

**NO!**



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# Category 3 – Revocable Trust Calculation

## Example 4 (continued):

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

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

# Category 3 – Revocable Trust Calculation

**Example 4 (continued):**

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

**NO!**

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

# Category 3 – Revocable Trust Calculation

## Example 4 (continued):

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

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

# Category 3 – Revocable Trust Calculation

## Example 4 (continued):

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

# Category 3 – Revocable Trust Calculation

## Example 4 (continued):

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

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

# Category 3 – Revocable Trust Calculation

**Example 4 (continued):**

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

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

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

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

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

# Category 3 – Revocable Trust Calculation

**Example 4 (continued): Proof that the deposit of $1,312,336 is the total insured amount for all beneficiaries combined**

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

# PART 3

# DEPOSIT INSURANCE COVERAGE RESOURCES

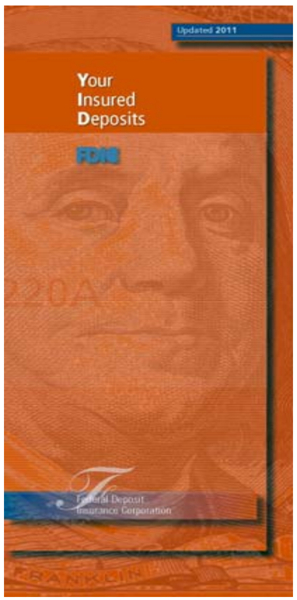
# FDIC Resources

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


**Calculator:**
Electronic Deposit Insurance Estimator

**Brochures:**
Deposit Insurance Summary
Your Insured Deposits

**Videos:**
Overview on Deposit Insurance Coverage




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

# FDIC Resources

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

**Hearing impaired: 1-800-925-4618**

# Thank You for Participating in this Training