

IRREVOCABLE TRUST ACCOUNTS [\(12 C.F.R. § 330.13\)](#)

I. Definition

Irrevocable trust accounts are deposit accounts held by an irrevocable trust established by a statute or a written trust agreement. An irrevocable trust may also be created through the death of the grantor of a revocable living trust.

Creators of irrevocable trusts are commonly called grantors. A grantor of an irrevocable trust creates the trust and contributes funds or property to the trust. However, the grantor cannot amend or revoke the trust agreement.

To be insured in this category, the account should be titled in the name of the trust. The identities and interests of the beneficiaries should be ascertainable from the trust agreement. Also, the trust must be valid under state law.

II. Insurance Limit

One or more deposit accounts in the name of an irrevocable trust are insured up to \$250,000 for the “non-contingent trust interest” of each beneficiary. Separately, funds representing “contingent interests” are insured up to \$250,000 in the aggregate. Finally, any funds representing a grantor’s “retained interest” are insured to the grantor in the single account category (in aggregation with the grantor’s other single accounts).

The term “non-contingent trust interest” is defined in the FDIC’s regulations as an interest capable of determination without evaluation of any contingencies except those covered by present worth/life expectancy tables. To the extent that the beneficiary’s interest is subject to any other type of contingency, the interest is a “contingent interest.”

In many cases, the deposit insurance coverage of an irrevocable trust account is limited to \$250,000 due to the contingent nature of the beneficiaries’ interests.

III. Living Grantor Establishes an Irrevocable Trust

In determining coverage for irrevocable trusts, IDI employees should consider the following questions:

1. Does the Grantor Have a Retained Interest in the Trust?

In an irrevocable trust, the grantor transfers property to the trust and once those assets are transferred, they are beyond the grantor's reach. However, grantors at times retain an interest in some or all of the trust assets. When a trust provides for the trustee to be able to return assets to the grantor, those assets are the grantor's retained interest. John, for example, funded his irrevocable trust with a \$250,000 deposit. Under the terms of the trust, John may recover the funds under certain prescribed circumstances. In this example, the entire deposit of \$250,000 is considered a "retained interest."

To the extent a grantor has a retained interest in an irrevocable trust, the retained interest is considered the grantor's single account, added to the grantor's other single accounts at the same IDI, and the combined balance is insured up to \$250,000.

2. Are the Interests of the Beneficiaries Contingent or Not Ascertainable?

The FDIC regulations define a *contingent interest* as an interest that cannot be determined without evaluation of contingencies other than life expectancy.

The following are examples of *contingencies*:

- a. Beneficiaries will not receive funds unless certain conditions are met, such as graduating college;
- b. Trustees have discretion to allocate funds among the beneficiaries. For example, trustees are able to invade the trust principal on a beneficiary's behalf for any reason, such as paying medical expenses.

To the extent the interests of the beneficiaries are contingent, those interests are added together and insured for up to a maximum of \$250,000, regardless of the number of beneficiaries.

To the extent the interests of the beneficiaries are *non-contingent*, each beneficiary's interest is insured up to \$250,000.

Where the funds in a single irrevocable trust account represent both contingent interests and non-contingent interests, the FDIC would separate the two types of funds before applying the rules above.

IV. Revocable Trust Becomes Irrevocable Due to Grantor’s Death

In general, depositors with a revocable trust account that became an irrevocable trust account as a result of the death of a grantor should deposit no more than a maximum of \$250,000 at each IDI. If your client has such a trust, the FDIC recommends calling and speaking with a deposit insurance subject matter expert to determine coverage. For additional discussion of these rules, please contact the FDIC at 1-877-275-3342.

Example 23

Facts:

Mary Smith is recently deceased. Richard Law, Trustee, opened an account at ABC Bank in the name of the Mary Smith irrevocable trust. Under the terms of the trust, Mary’s husband John Smith (currently alive) is to receive funds in the discretion of the trustee. After John’s death, any remaining funds are to be distributed to two children, Anna and Milton. The balance of the account is \$750,000.

Example 23: Irrevocable trust account with one grantor and contingent interests					
Account Title	Beneficiaries	Contingent Interests?	Balance	Insured Amount	Uninsured Amount
Richard Law, Trustee, Mary Smith Trust	John, Anna and Milton	Yes, trustee has discretion over allocation of the funds	\$750,000	\$250,000	\$500,000
Total		\$250,000	\$750,000	\$250,000	\$500,000

Rule:

When an irrevocable trust has beneficial interests that are contingent, then the irrevocable trust account is insured for up to a maximum of \$250,000.

➤ Irrevocable Trust Accounts

Answer:

Under the terms of the trust, Richard can invade the trust for the support of John. As a result, the beneficiaries' interests are contingent and the maximum that Richard should deposit in the name of this irrevocable trust at one IDI is \$250,000.

V. Coverdell Education Savings Accounts

A Coverdell Education Savings Account is insured as an irrevocable trust account. Although this account is referred to as an *Education IRA*, the account does not involve retirement and, therefore, is not insured as a self-directed retirement account. It is an irrevocable commitment created for the purpose of paying qualified education expenses of a designated beneficiary. This type of account is insured as an irrevocable trust account up to \$250,000.