

§ 330.11

12 CFR Ch. III (1–1–05 Edition)

(2) The rules in paragraph (c) of this section on the interest of non-qualifying beneficiaries apply to living trust accounts. (*Example:* C is the owner of a living trust account with a deposit balance of \$200,000. The trust provides that upon C's death his son shall receive \$100,000 and his nephew shall receive \$100,000. The account would be insured for *at least* \$100,000 because one qualifying beneficiary (C's son) would become the owner of trust interests upon C's death. Because the nephew is a non-qualifying beneficiary entitled to receive an interest in the trust upon C's death, that interest would be considered C's single-ownership funds and insured with any other single-ownership funds C might have at the same institution. Assuming C has no other single-ownership funds at the institution, the full \$200,000 in the living trust account would be insured (\$100,000 in C's revocable trust account ownership capacity and \$100,000 in C's single-ownership account capacity).

(3) For living trusts accounts that provide for a life-estate interest for designated beneficiaries and a remainder interest for other beneficiaries, unless otherwise indicated in the trust, each life-estate holder and each remainder-man will be deemed to have equal interests in the trust assets for deposit insurance purposes. Coverage will then be provided under the rules in this paragraph (f) up to \$100,000 per qualifying beneficiary.

(*Example 1:* D creates a living trust providing for his wife to have a life-estate interest in the trust assets with the remaining assets going to their two children upon the wife's death. The assets in the trust are \$300,000 and a living trust deposit account is opened for that full amount. Unless otherwise indicated in the trust, each beneficiary (all of whom here are qualifying beneficiaries) would be deemed to own an equal share of the \$300,000; hence, the full amount would be insured. This result would be the same even if the wife has the power to invade the principal of the trust, inasmuch as defeating contingencies are not relevant for insurance purposes.)

(*Example 2:* E creates a living trust providing for a life estate interest for her spouse and remainder interests for two nephews. The life estate holder is a qualifying beneficiary (E's spouse) but the remainder-men (E's nephews) are not. Assuming a deposit account balance of \$300,000, the living trust ac-

count would be insured for *at least* \$100,000 because there is one qualifying beneficiary (E's spouse). The \$200,000 attributable to E's nephews would be insured as E's single-ownership funds. If E has no other single-ownership funds at the same institution, then \$100,000 would be insured separately as E's single-ownership funds. Thus, the \$300,000 in the living trust account would be insured for a total of \$200,000 and \$100,000 would be uninsured.)

(4) In order for a depositor to qualify for the living trust account coverage provided under this paragraph (f), the title of the account must reflect that the funds in the account are held pursuant to a formal revocable trust. There is no requirement, however, that the deposit accounts records of the depository institution indicate the names of the beneficiaries of the living trust and their ownership interests in the trust.

(5) Effective April 1, 2004, this paragraph (f) shall apply to all living trust accounts, unless, upon a depository institution failure, a depositor who established a living trust account before April 1, 2004, chooses coverage under the previous living trust account rules. For any depository institution failures occurring between January 13, 2004 and April 1, 2004, the FDIC shall apply the living trust account rules in this revised paragraph (f) if doing so would benefit living trust account holders of such failed institutions.

[63 FR 25756, May 11, 1998, as amended at 64 FR 15657, Apr. 1, 1999; 69 FR 2829, Jan. 21, 2004]

§ 330.11 Accounts of a corporation, partnership or unincorporated association.

(a) *Corporate accounts.* (1) The deposit accounts of a corporation engaged in any "independent activity" (as defined in § 330.1(g)) shall be added together and insured up to \$100,000 in the aggregate. If a corporation has divisions or units which are not separately incorporated, the deposit accounts of those divisions or units shall be added to any other deposit accounts of the corporation. If a corporation maintains deposit accounts in a representative or fiduciary capacity, such accounts shall not be treated as the deposit accounts of the

Federal Deposit Insurance Corporation

§ 330.12

corporation but shall be treated as fiduciary accounts and insured in accordance with the provisions of § 330.7.

(2) Notwithstanding any other provision of this part, any trust or other business arrangement which has filed or is required to file a registration statement with the Securities and Exchange Commission pursuant to section 8 of the Investment Company Act of 1940 or that would be required so to register but for the fact it is not created under the laws of the United States or a state or but for sections 2(b), 3(c)(1), or 6(a)(1) of that act shall be deemed to be a corporation for purposes of determining deposit insurance coverage.

(b) *Partnership accounts.* The deposit accounts of a partnership engaged in any "independent activity" (as defined in § 330.1(g)) shall be added together and insured up to \$100,000 in the aggregate. Such insurance coverage shall be separate from any insurance provided for individually owned (single ownership) accounts maintained by the individual partners. A partnership shall be deemed to exist, for purposes of this paragraph, any time there is an association of two or more persons or entities formed to carry on, as co-owners, an unincorporated business for profit.

(c) *Unincorporated association accounts.* The deposit accounts of an unincorporated association engaged in any independent activity shall be added together and insured up to \$100,000 in the aggregate, separately from the accounts of the person(s) or entity(ies) comprising the unincorporated association. An unincorporated association shall be deemed to exist, for purposes of this paragraph, whenever there is an association of two or more persons formed for some religious, educational, charitable, social or other noncommercial purpose.

(d) *Non-qualifying entities.* The deposit accounts of an entity which is not engaged in an "independent activity" (as defined in § 330.1(g)) shall be deemed to be owned by the person or persons owning the corporation or comprising the partnership or unincorporated association, and, for deposit insurance purposes, the interest of each person in such a deposit account shall be added to any other deposit accounts individ-

ually owned by that person and insured up to \$100,000 in the aggregate.

§ 330.12 Accounts held by a depository institution as the trustee of an irrevocable trust.

(a) *Separate insurance coverage.* "Trust funds" (as defined in § 330.1(o)) 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, shall be insured up to \$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.

(b) *Determination of interests.* The insurance for funds held by an insured depository institution in its capacity as trustee of an irrevocable trust shall be determined in accordance with the following provisions:

(1) *Allocated funds of a trust estate.* If trust funds of a particular "trust estate" (as defined in § 330.1(n)) are allocated by the fiduciary and deposited, the insurance with respect to such trust estate shall be determined by ascertaining the amount of its funds allocated, deposited and remaining to the credit of the claimant as fiduciary at the insured depository institution in default.

(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.

(c) *Limitation on applicability.* This section shall not apply to deposits of trust funds belonging to a trust which