

Trusts

Question: *Are all irrevocable trusts at one institution added together? Or is it determined by the owner/beneficiary combination?*

Answer: In a sense, yes to both. For these accounts, all trust interests for a beneficiary of the same grantor (regardless of relation) are aggregated and insured up to \$100,000. See 12 C.F.R. § 745.9-1. In other words, no matter how many irrevocable trust accounts exist at a credit union, a grantor only receives \$100,000 in share insurance for any one distinct beneficiary.

Question: *Understanding that either all beneficiaries or all owners on an irrevocable trust must be members in order to qualify for insurance, how is membership determined? Is that dependent on the credit union? Alternatively, as long as all owners or beneficiaries are at least listed as joint owners on an account is that sufficient?*

Answer: Each credit union must determine whether the listed beneficiaries or grantors qualify for membership at the time an irrevocable trust is opened. Please read NCUA Letter to Credit Union 07-0132 (April 18, 2007) for additional details. It is available at www.ncua.gov.

Question: *Member A has a living trust at credit union with her 2 children as beneficiary (200,000 in this acct) She also has irrevocable trust with 2 children as beneficiary (100,000 in that account) There is also an underwill account that is for benefit of Member A with 200,000 in it and 2 children as beneficiary. All insured?*

Answer: We'll have to make a number of assumptions here. Assuming the Living Trust qualifies as a revocable trust, Member A would receive up to \$100,000 per qualifying beneficiary. Children would qualify as such. A member's interest in irrevocable trusts is also insured \$100,000 per beneficiary. We'd need to know more about the "underwill" account. If it is a revocable trust, it would be lumped together with the living trust, assuming that both are deemed to be revocable trusts per NCUSIF requirements.

Question: *Please explain further-- father - trustee for child 1. Mother - trustee for child 1. Is child 1 insured for \$100,000 in each trust account?*

Answer: For the purposes of this answer, we'll assume you are talking about revocable trusts. Each owner of a revocable trust will enjoy up to \$100,000 of share insurance for each qualifying beneficiary. A mother and a father could open up separate revocable trusts for the same child.

Question: *Does the beneficiary needs to be members of the credit union to qualify?*

Answer: We will assume that you want to know whether beneficiaries must be members in order to qualify for share insurance protection. No, they do not. Please note though, that for irrevocable trusts, beneficiaries *may* need to be members of the credit union in order for the trust itself to qualify for membership.

Question: *Can you explain the membership requirement for irrevocable trusts. For example, is a joint owner on an account considered a "member" for these purposes? Or is it dependent on each institutions definition of membership?*

Answer: You may want to review NCUA Legal Opinion Letter 07-0132 (April 18, 2007). Each credit union must determine whether the listed beneficiaries or grantors qualify for membership at the time an irrevocable trust is opened. The parties to a trust are: The Grantor (the individual who supplied the funds; The Trustee(s) (the individual(s) who have day-to-day control over the funds; and The Beneficiary(ies) (the person(s) who will receive funds after some specified event.

Question: *Can you define a contingent interest in an irrevocable trust?*

Answer: In general, a contingent interest is an interest which, according to a deed, will or trust, a party will receive only if a certain event occurs or certain circumstances happen.

Question: *Slide 12 of presentation states that "Joint revocable trust owned by married couple where they name each other as sole beneficiaries is treated as non-trust joint account for NCUSIF purposes." Does that change your examples in the brochure that shows full up to \$100,000 on the each for the joint account and additional \$100,000 coverage on each revocable trust accounts with wife POD on husband and husband POD on wife?*

Answer: No. NCUA states this quite clearly in its regulations. "Where a husband and a wife establish a revocable trust account naming themselves as the sole beneficiaries, the account will not be insured according to the provisions of this section, but will instead be insured in accordance with the joint account provisions of § 745.8." In the example you provided above, the revocable trust accounts were not jointly owned.

Question: *If a revocable trust is listed as an account beneficiary, and the beneficiaries of the trust are the grantor's two children, how is the account insured?*

Answer: NCUA's share insurance regulations indicate that for revocable trusts, qualified beneficiaries do not include another revocable trust. The revocable trust would be a non-qualifying beneficiary. As NCUA states, if the named beneficiary of a revocable trust account is other than the spouse, child, grandchild, parent, brother or sister of the account owner, the funds corresponding to that beneficiary shall be treated as an individually owned account of the owner, aggregated with any other individually owned accounts of the owner, and insured up to \$100,000.

Question: *How would a legal trust, "the john & mary smith family trust" with three beneficiaries be insured? \$100K each beneficiary or \$100k per owner?*

Answer: Here is NCUA's regulatory language:

(e) Living Trusts. Insurance treatment under this (revocable trust) section also applies to revocable trust accounts held in connection with a so-called "living trust," meaning a formal trust that an owner creates and retains control over during his or her lifetime. If a named beneficiary in a living trust is a qualifying beneficiary under this section, then the share account held in connection with the living trust may be eligible for share insurance under this section, assuming compliance with all the provisions of this part. This coverage applies only if, at the time an insured credit union fails, a qualifying beneficiary would be entitled to his or her interest in the trust assets upon the grantor's death and that ownership interest would not depend upon the death of another beneficiary. If there is more than one grantor, the beneficiary's entitlement to the trust assets must be upon the death of the last grantor....

Question: *Assume that two owners own a revocable trust account that has four beneficiaries, and each beneficiary is a qualifying beneficiary for both owners. Is the total share insurance of \$800,000 available at any point in time or just after the death of the grantors?*

Answer: At any time. Revocable trust share insurance does not mandate that the account owner die before share insurance protection takes place. The protection exists when the account is opened, depending on the number of beneficiaries and whether they are "qualifying."

Question: *Is there a limit to the number of qualifying beneficiaries?*

Answer: No.

Question: *Can I be a joint account owner on more than one account to increase my coverage available for joint accounts to greater than \$100,000?*

Answer: No. Your share in multiple joint accounts is aggregated to a total of \$100,000. Part 745.8(a) states “[t]he interest of a co-owner in all qualifying joint accounts shall be added together and the total for that co-owner shall be insured up to the SMSIA (\$100,000).” Thus, if you had a joint account with your husband that contained \$70,000 and a joint account with your brother containing \$200,000, assuming equal interests in the accounts, you would have \$35,000 uninsured (\$100,000 in coverage and an interest of \$135,000 in the two joint accounts).

Question: *Our member has a joint account and an IRA at the credit union. Both accounts are under the same account number, how will this impact the share insurance?*

Answer: NCUA has not mandated how credit unions organize their account structures. However, it must be clear from the records and titling of the accounts that the accounts are separate in order to insure they are treated as a separate category of account for share insurance purposes.

Question: *We have members who have both a share and share draft account and the account lists a beneficiary. Are they only insured up to \$100,000?*

Answer: This depends on how the accounts are set up. If both are set up as revocable trust accounts (where the account records show a clear intent to pass the funds along to the named beneficiary upon death) – then they will receive up to \$100,000 in total between the funds. If the account records indicate that the share draft account is an individual account and the share account is a POD account – the accounts would each be insured up to \$100,000 because they fall under different types of ownership types. Thus, a crucial part is whether the beneficiary applies to both accounts. This will help determine how much of the account is insured. If your credit union’s process is not clear on which accounts are meant to be POD (revocable trust) accounts and which are meant as individual accounts you should consider reviewing your policies.

Question: *If a husband and wife have a joint account together and a joint account that has their son as a co-owner – are the funds of the co-owners aggregated even though they have multiple joint accounts with different joint owners?*

Answer: Yes. The accounts are still aggregated even though they have a different set of co-owners. Part 745.8(a) indicates: “[t]he interest of a co-owner in all qualifying joint accounts shall be added together and the total for that co-owner shall be insured up to the SMSIA.” Therefore, the husband, wife and son would each be ensured for a total of \$100,000 for their interests in the joint accounts. If there was \$100,000 in Joint Account A with Husband and Wife and \$300,000 in Joint Account B with Husband, Wife, and Son, both the Husband and Wife would have uninsured funds. Assuming, as NCUA does unless otherwise noted in the account records, that the shares of joint account owners are equal – the Husband has a \$50,000 interest in Joint Account A and a \$100,000 interest in Joint Account B – leaving \$50,000 uninsured. The Wife’s funds are similarly insured. The Son receives full coverage on his \$100,000 interest in Joint Account B.

Question: *We are confused on how joint accounts can be both insured separately and added together. Isn’t this contradictory?*

Answer: Qualifying joint accounts are insured separately from other types of ownership accounts (i.e. individual accounts, POD accounts, IRA accounts, etc.) A member’s interest in qualifying joint accounts is added together for a maximum of \$100,000 in insurance coverage. Thus, a husband and wife can establish a joint account as “Husband & Wife” and each receive up to \$100,000 in insurance coverage, which would be separate from their individually owned accounts. However, the husband and wife could not increase their insurance coverage for joint accounts by establishing a second joint account titled as “Wife & Husband.” This would not provide an additional \$100,000 each in insurance coverage because each member’s interest in joint accounts is aggregated together. Part 745.8(a) covers this area: “(a) *Separate insurance coverage.* Qualifying joint accounts, whether owned as joint tenants with right of survivorship,

as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be insured separately from accounts individually owned by any of the co-owners. The interest of a co-owner in all qualifying joint accounts shall be added together and the total for that co-owner shall be insured up to the SMSIA.”

Question: *If a husband and wife have a joint account, which is set up as a POD account, how is insurance coverage calculated?*

Answer: As most share insurance questions, the best source for the answer is the regulation itself. This situation is covered by Part 745.4(f). This section indicates that a joint revocable trust account receives up to \$100,000 per co-owner per qualifying beneficiary. Thus, if the joint revocable trust account lists the two children of the husband and wife as the beneficiaries – the account could receive up to \$400,000 of share insurance coverage. The husband receives \$100,000 in coverage for Child A and \$100,000 for Child B. The wife receives \$100,000 in coverage for Child A and \$100,000 for Child B. The account could have up to \$400,000 and still be fully insured. Note, however, that if either the wife or husband passed away – the insurance coverage on the account would decrease to \$200,000 (\$100,000 per qualifying beneficiary). Similarly, if one of the qualifying beneficiaries passes away – the insurance coverage would be reduced to \$200,000. These situations emphasize how share insurance coverage calculations are not static – but are dynamic calculations that can be altered or distorted when the underlying circumstances change.

Question: *Can two unrelated members open a joint account or is it limited to husband and wife?*

Answer: Yes, two unrelated members can open a joint account. Share insurance coverage is calculated as indicated in NCUA’s joint accounts section of its Rules & Regulations. See 12 C.F.R. 745.8(b) for the requirements for a qualifying joint account.

Question: *How many joint owners can an account may have and still receive share insurance coverage?*

Answer: NCUA has not limited the number of joint account owners that may be on an account. If the account is established so that each co-owner has personally signed the signature card and has the right to withdrawal that is the same as the other co-owners then the account could qualify as a joint account for share insurance coverage. 12 C.F.R. 745.8(b). From a practical standpoint, having a joint account with 20 co-owners may not be a wise move. However, if properly set up each co-owner of a joint account would receive up to \$100,000 in coverage.

Question: *We have a member who would like to increase her share insurance coverage by opening up multiple joint accounts. She would like to open up three joint accounts – one joint with her husband, one with her son and one with her daughter. Can she increase her share insurance coverage in this manner?*

Answer: NCUA’s share insurance rules allow each co-owner of a joint account to receive up to \$100,000 in share insurance from a joint account ownership type. This \$100,000 in coverage is separate from their interests in other types of accounts (i.e. individual, PODs, and IRAs). However, each member’s interest in his or her joint accounts is aggregated together. Thus, the member would receive up to \$100,000 in coverage for all of her joint accounts combined. The member would not be increasing her own share insurance coverage by establishing additional joint accounts because her interest in joint accounts is aggregated together. She could be increasing the share insurance for her husband, son and daughter; however, if they do not have other joint accounts at the credit union. The husband, son and daughter would each receive up to \$100,000 in insurance coverage for their interests in these joint accounts. The wife would not receive any additional coverage for herself by adding additional joint accounts (assuming she has the maximum \$100,000 in insurance coverage in another joint account).

Question: *A member has a joint account at the credit union with their wife. The joint account is set up to be payable-on-death to the couple’s three children who are listed as beneficiaries. How much insurance coverage can this account receive?*

Answer: Up to \$600,000. See 12 C.F.R. 745.4(f). The husband would receive \$100,000 per qualifying beneficiary on the account. In this situation, the three children are all qualifying beneficiaries of the husband thereby providing the account with \$300,000 in insurance coverage. The three children are also qualifying beneficiaries of the wife giving the account an additional \$300,000 in insurance coverage (\$100,000 per child). Thus, each qualifying beneficiary provides up to \$100,000 in coverage for each the husband and the wife. Please note, however, that if either the husband, wife, or one of the children were to pass away the share insurance available to the account would be changed.

Question: *What if you have a revocable trust account, but the POD does not qualify (say a boyfriend)? The account has a balance of \$85,000. Is that money insured by NCUA?*

Answer: NCUA's insurance regulations state: "Interests held for non-qualifying beneficiaries will be added to the individual accounts of the owners." Therefore, the \$85,000 would be lumped in with all the other individual accounts of the owner. These funds would then be aggregated and insured up to \$100,000.

Question: *Our member has a joint revocable trust with spouse with two children as beneficiaries, and the dollars on deposit is 225K, is the account fully insured for the 225K or just 200k?*

Answer: Without knowing more, it seems likely that the children would qualify as "qualifying beneficiaries" for both account owners. Therefore, each account owner would receive \$100,000 of share insurance for each child in this revocable trust. With two account owners, the potential share insurance on this account would be \$400,000 – assuming that the owners do not hold funds in other revocable trusts for these same children at your credit union.

Question: *Do insurance limitations on beneficiaries change if each beneficiary is provided a different percentage of account on death?*

Answer: Yes. Assume a member has a POD account with a \$200,000 balance. She names her two children as account beneficiaries. If each beneficiary has the same interest (\$100,000), then all funds in this account would be insured, assuming the mother has no other revocable trust accounts at the credit union that name these children as beneficiaries. However, if the interests were changed, some funds would be uninsured. For example, if the interests were 75% and 25%, then one beneficiary's interest would be \$150,000. This exceeds the potential share insurance by \$50,000.

Question: Am I to understand correctly that if a member opens an account and names a beneficiary, is it by definition a revocable trust account?

Answer: Yes. NCUA regulations define a revocable trust account as an account where the account records show the owner's intent to have funds pass to a beneficiary upon his or her death.

Question: *On some Trust Accts that we have, the trust documents state that the member is the Grantor/Settlor, Trustee and also beneficiary during their lifetime....other beneficiaries are named upon death...how does this affect coverage...is it the upon death beneficiaries that we should be looking at for coverage?*

Answer: We'll have to refer to NCUA's definition of a revocable trust account. It is: a testamentary account, tentative or "Totten" trust account, "payable-on-death" account, or any similar account, which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary. From that, it seems that this member wants funds to pass on to a beneficiary upon his or her death. And it is those named beneficiaries that determine share insurance coverage.

Question: *Are we required to maintain a copy of the trust on file for the member to be paid insurance coverage?*

Answer: No. Mr. Kressman clarified that credit unions do not need to keep a copy of the trust within the credit union. However, the credit union's records, according to NCUA regulations, must evidence an intention that the funds shall pass on the death of the owner of the funds to be paid to a named beneficiary.

Question: *On a Living Trust do the beneficiaries have to be identified in the title of the account?*

Answer: No. But the account record must evidence that the owner wishes funds to pass on to the beneficiary upon his or her death.

Question: *Are Totten Trust accounts insured as a separate category than a formal revocable trust (account for trust)?*

Answer: No. NCUA groups formal and informal revocable trusts together for the purposes of share insurance.

Question: *If there are two beneficiaries named in a Totten trust, is that account insured up to \$200,000?*

Answer: Potentially. The owner of a Totten Trust, or any other revocable trust, gains \$100,000 of share insurance for each qualifying beneficiary in all such accounts at a credit union.

Question: *The beneficiaries on the family trust are children of the account holder. Do the children have to be specifically list on CU records in order for the maximum share insurance to apply?*

Answer: Upon the failure of a credit union, NCUA officials will review account records to determine the insurance protection of all accounts. The clearer that account records can be regarding the account type and beneficiaries (if any), the easier it will be for them to ascertain the correct amount of share insurance.

Question: *Totten Trust Owner - Fred has niece and nephew as beneficiaries (which at this point are NOT covered) Fred wants to add father-in-law as Joint Owner on Totten Trust. He is the GRANDFATHER of the beneficiaries... What is the allowed coverage?*

Answer: Once the grandfather is added as a joint owner, his interests in all such Totten Trusts (or other revocable trust accounts) at the credit union is insured up to \$100,000 per qualifying beneficiaries. The two grandchildren would be qualifying beneficiaries. The uncle's interest in that account would be treated differently, as his niece and nephew are not qualifying beneficiaries. NCUA regulations indicate that interests held for non-qualifying beneficiaries will be added to the individual accounts of the owners.

Question: *For credit unions located in California, is a same-sex married couple considered as spouse to each other for the purpose of NCUSIF?*

Answer: No. Federal statute defines what constitutes a spouse for the purposes of share insurance. Spouse only means a person of the opposite sex who is a husband or wife, under the federal Defense of Marriage Act (1 U.S.C. § 7).

Question: *How are in-laws and stepchildren treated for share insurance purposes?*

Answer: For revocable trusts, NCUA indicates that the following are "qualifying beneficiaries": a spouse, child, grandchild, parent, brother or sister. It expands upon the definition of certain family members by stating the following: "(T)he term "child" includes the biological, adopted or step-child of the owner; the term "grandchild" includes the biological, adopted or step-child of any of the owner's children; the term "parent" includes the biological, adoptive or step-parent of the owner; the term "brother" includes a full brother, half brother, brother through adoption or step-brother; and the term "sister" includes a full sister, half sister, sister through adoption or step-sister." So, to answer your question, stepchildren are treated as children. In-laws, however, do not appear to meet the definition of parent, as they would not be the biological, adoptive or stepparent of the owner.

Question: *Does grandchildren also refer to great-grandchildren, great-great grandchildren, etc.?*

Answer: The regulations do not indicate that the term “grandchild” includes great-grandchildren or great-great-grandchildren.

Question: *Your Insured Funds states that if there are two or more grantors or beneficiaries all grantors and/or all beneficiaries must be members. Can you expand on this?*

Answer: You read this from the portion of the “Your Insured Funds” brochure that deals with irrevocable trusts. NCUA has indicated that to enjoy share insurance purposes, these irrevocable trust accounts must qualify for credit union membership. As such, either all the grantors or beneficiaries must be member of the credit unions. Please read NCUA Letter to Credit Union 07-0132 (April 18, 2007) for additional details.

Question: *What if I have an individual account with two beneficiaries only, in the account it has 185K. Does the insurance cover the full amount if I am still alive? Alternatively, am I insured only for 100K?*

Answer: This is a great question as it underlines a common misconception about share insurance. Accounts with beneficiaries are not treated as individual accounts. Rather, NCUA treats them as revocable trust accounts. Therefore, if both beneficiaries were “qualifying beneficiaries,” then the account would be insured for up to \$200,000.

Question: *Husband has account with 200,000 that wife is joint owner on and child 1 and child 2 are contingent beneficiaries. Wife has account at same credit union with husband as joint owner and child 1 and child 2 are contingent beneficiaries. Would all funds be covered?*

Answer: It is hard to say, as you mentioned contingencies. NCUA states the following regarding contingencies: Valuation of trust interests: (1) Trust interests in the same trust deposited in the same account will be separately insured if the value of the trust interest is 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 § 20.2031-7 of the Federal Estate Tax Regulations (26 C.F.R. 20.2031-7). For another discussion concerning contingencies and insurance, please review NCUA Legal Opinion Letter 00-0943 (December 5, 2000).

Question: *Another POD question. Member has a share savings account with husband as joint, \$50,000. Member also has certificate #1 with daughter as POD and \$100,000. Finally, member has certificate #2 with a different daughter as POD and \$100,000. How much coverage is there?*

Answer: So, husband and wife both have one joint account, and the mother has two POD accounts. The husband and wife’s interest in all joint accounts would be insured up to \$100,000, so that account is fine. If the named beneficiary of a revocable trust account is other than the spouse, child, grandchild, parent, brother or sister of the account owner, the funds corresponding to that beneficiary shall be treated as an individually owned account of the owner, aggregated with any other individually owned accounts of the owner, and insured up to \$100,000. Both beneficiaries are children, so both accounts would be insured separately up to \$100,000.

Question: *Can you clear up a question that we do not agree on? If I am listed as a POD for my mother's account how does that affect my insurance coverage as well being that I am of age and also have funds on deposit? Even though that POD money will not come to me until her death, and since this separates her insurance coverage and protects her how does it protect me?*

Answer: The insurance coverage that your mother has for a POD with you named as a beneficiary does not affect your own account share insurance coverage at the credit union. That being said, it does protect you in that should the credit union fail, the funds your mother has in the POD are insured based on you being a beneficiary.

Joint Accounts/Beneficiaries

Question: *The Joint Accounts (two persons) protection does not make sense. If joint accounts are insured to \$100k, how can each owner be insured to \$100k separately? I asked this question, but by the way, the gentlemen explained it, it is still confusing.*

Answer: Each person's interest in joint accounts is insured up to \$100,000. Therefore, if two people jointly own a joint account, each person's interest is insured separate for a total of \$200,000. Three owners? Potentially \$300,000.

Question: *What happens if a Joint account has a joint that is not related, perhaps a friend or a niece? Does it go to the Sole interest?*

Answer: If the joint account holder is not related but is instead a friend, it is still treated as a joint account for insurance purposes if it is a "qualifying joint account" under § 745.8 of NCUA's Share Insurance rule. Relationship of the two account holders does not determine whether it qualifies for joint account insurance. See, 12 C.F.R. § 745.8.

Question: *If a member has a share account with three beneficiaries listed, would the beneficiaries be insured or would the member need to open a specific account for the sole purpose of the beneficiaries?*

Answer: For the accounts to be insured as revocable trust accounts, the account records must indicate that the member intends the funds in the account to pass on to the beneficiary upon the member's death. If the records indicate such intention, and the beneficiaries are qualifying beneficiaries (spouse, child, grandchild, parent, brother or sister of the account owner), then the account will be insured for the owner up to \$100,000 in the aggregate as to each qualifying beneficiary separately from individual accounts of the owner and beneficiaries. See, 12 C.F.R. § 745.4.

Question: *How much does a joint account (owned by two spouses) with six children as beneficiaries cover?*

Answer: Presuming that this is the only revocable trust account for these owners as to these beneficiaries, \$1,200,000, as long as both owners are alive. If one owner passes away, the coverage would be cut in half to \$600,000. See, 12 C.F.R. § 745.4(f).

Question: *Are joint accounts with a beneficiary designation considered revocable trust accts?*

Answer: In accordance with NCUA's rule, if your account records indicate the intention of the joint owners for the funds to pass to the beneficiary upon their death, then yes, it will be a revocable trust account. Credit unions should ensure that their records are clear as to the owners' intentions. See, 12 C.F.R. § 745.4.

Question: *If I have a joint account with my wife and we name our two children beneficiaries. Are we insured up to \$400k, since we have four different pairs?*

Answer: Yes, presuming you have no other revocable trust accounts with any of the same pairs. See 12 C.F.R. § 745.4(f) and the Appendix to Part 745, Section B, Example 3.

Question: *Are you saying that revocable trusts with qualifying beneficiaries are only insured for the beneficiary and any excess funds are uninsured?*

Answer: The funds in revocable trust accounts are insured for the owner up to \$100,000 in the aggregate as to each qualifying beneficiary. Any funds in excess of \$100,000 as to a qualifying beneficiary will be

uninsured. Any funds correlating to a nonqualifying beneficiary will be lumped with the owner's individual funds. See 12 C.F.R. 745.4.

Question: *Anthony mentioned individual accounts are insured up to \$100,000 if a beneficiary is not listed. What effect does a beneficiary have on this?*

Answer: If the account lists a qualifying beneficiary, indicating the owner's intent that the funds pass to the beneficiary upon the owner's death, then the account will be insured as a revocable trust account. See 12 C.F.R. § 745.4.

Question: *If the credit union does not have record of beneficiaries on a trust - how do they calculate the uninsured amount reported on the Call report?*

Answer: It would be difficult to do so, if not impossible, without those records.

Question: *If a member adds qualified beneficiaries to each one of his 3 individual accounts, are those funds insured to \$300K?*

Answer: Probably, if they are three different qualifying beneficiaries. The owner is insured in the aggregate as to each qualifying beneficiary for \$100,000. So if there were two qualifying beneficiaries for the owner, \$200,000 of the funds in the owner's revocable trust accounts would be insured separately from the owner's individual funds. See, 12 C.F.R. § 745.4.

Question: *What type of information will be required from the credit union for a beneficiary to receive funds? SSN?*

Answer: The rule does not provide that any specific information is required.

Question: *Can you name a Legal Trust as a beneficiary on a POD account? If so, how is the insurance calculated?*

Answer: A Legal Trust would not be a qualifying beneficiary under the revocable trust account provisions. Thus, the funds in a POD account naming a Legal Trust as a beneficiary would be combined with the owner's individual funds, and insured up to \$100,000 in the aggregate. See, 12 C.F.R. § 745.4.

Question: *I am joint on two accounts, and my interests total only \$50K total, does the other \$50K coverage spill over to my individual account if I have \$50K or less in my individual account?*

Answer: No. Individual accounts are insured separately from joint accounts.

Question: *Individual account owned by husband = \$100k. Individual account owned by wife = \$100K. Joint HW = \$200k. They own a POD account, naming 10 children as beneficiaries = \$1,000,000. Is total coverage \$1,400,000?*

Answer: No. Each parent would have \$100,000 of coverage for each child, making a total of \$2,400,000.00.

POD

Question: *I'm confused, in terms of share insurance coverage what constitutes a "non-qualifying" beneficiary? Must the beneficiary to a revocable trust account be related to the owner member?*

Answer: How the beneficiary is related to the owner member of the account indicates whether they are a "non-qualifying" beneficiary. Part 745 of NCUA's rules and regulations state that if a named beneficiary

to a revocable trust account is other than a **spouse, child, grandchild, parent, brother or sister** of the account owner, the funds corresponding to that beneficiary shall be treated as an individually owned account of the owner, aggregated with any other individually owned accounts of the owner, and insured up to the standard maximum share insurance amount (SMSIA). (Emphasis added.) 12 C.F.R. § 745.4(c). So if the beneficiary were the member's nephew or cousin, for example, the nephew or cousin would be a "non-qualifying" beneficiary.

Question: *Would a grandparent be considered a "qualified" beneficiary on a revocable trust account?*

Answer: No. Only a spouse, child, grandchild or a parent is a "qualified" beneficiary when they are the named beneficiary of a revocable trust account. For "qualified" beneficiaries, the account would be insured up to the \$100,000 in the aggregate for each beneficiary, separately from any other of accounts of the owner or beneficiary. See 12 C.F.R. § 745.4(b).

Question: *I understand that stepchildren still qualify as beneficiaries after a divorce. Would an ex-spouse qualify as a beneficiary after a divorce?*

Answer: No. NCUA does not address the issue of a divorce. NCUA does clarify and expand upon the definitions of child, grandchild, parent, brother and sister to include adoption, half-relations and step-relations. 12 C.F.R. § 745.4(d). Part 745 of NCUA's rules and regulations specifically states that a spouse would qualify as a beneficiary; once a person is divorced they are no longer a spouse therefore would no longer qualify. 12 C.F.R. § 745.4(b).

Question: *In the following example, would the account be eligible for \$200,000 based on the two qualifying relationships? Mom and Dad as joint owners, with a child beneficiary. Would the child be a qualified beneficiary to both?*

Answer: Yes. Each parent will gain up to \$100,000 in share insurance protection for each distinct qualified beneficiary in all revocable trust accounts (PODs included) at the credit union. Each parent, therefore, separately would have up to \$100,000 for his or her child.

Question: *So if we offer Payable on Deaths on all of our accounts does this remove the owner's rights of the \$100,000?*

Answer: That is the risk of including POD/beneficiary options on every credit union account. If all of your accounts offer members the ability to name beneficiaries, conceivably, every single account at your credit union might be treated as a revocable trust account for share insurance purposes. Remember, NCUA defines "revocable trust" as any account "revocable trust account" to include any account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary.

Question: *What is the process if I had two children & something happened to me, would the funds be paid to them or would it be paid to their legal guardian? I get this question a lot.*

Answer: NCUA's share insurance regulation indicates that in the case of trusts, insurance proceeds would be paid to the indicated trustee unless otherwise provided for in the trust instrument or under state law. Grantors who establish a trust may want to consult with financial planners to make sure that their children are adequately protected. A successor trustee, for example, might solve this dilemma.

Question: *If we have a member that has an individual account and adds three brothers as payable on death to the account (this we offer to all our members' accounts) would the account be covered for \$400,000 or \$300,000?*

Answer: Once someone adds beneficiaries to an account, the account records now show the intent of the owner to have funds pass on to beneficiaries upon his or her death. NCUA will treat these accounts as revocable trust accounts. Owners of revocable trust accounts receive \$100,000 of share insurance for each

distinct qualified beneficiary for such accounts at any one insured credit union. Your member has three qualified beneficiaries, so he would have up to \$100,000 in share insurance for each.

Question: *Did I understand it right that you can list beneficiaries on different share certificates and if they are qualifying, they will be insured up to \$100,000 each rather than being added into an individual's limit of all share accounts together?*

Answer: Yes. NCUA has indicated that subaccounts at a credit union (share draft, share certificate, etc.) can be structured differently (individual, jointly owned, POD, etc.) and receive different share insurance coverage. For more information, please review NCUA Legal Opinion Letter 97-0139 (March 7, 1997).

Question: *Maternal grandmother has \$100,000 primary account and \$100,000.00 i/t/f grandson. Paternal grandmother has \$100,000.00 in primary acct and \$100,000.00 i/t/f same grandson what is insured?*

Answer: We're going to assume that there are two separate accounts owned by each grandparent. Each grandparent can have individual accounts insured up to \$100,000. And each can open a revocable trust and name a grandchild (a qualifying beneficiary) as beneficiary. They'd get up to \$100,000 for each distinct beneficiary of a revocable trust account. Based on your fact pattern, it looks like \$400,000 in insurance.

Question: *If a member has exceeded its insured maximum amount in POD accounts, will the excess funds be covered as part of the members' individual account?*

Answer: Not necessarily. Interests of nonqualifying beneficiaries will be treated as the individual account of the owner. Otherwise, uninsured funds in POD accounts remain uninsured.

Question: *A Trust Account lists "successor trustees." In order to have over 100,000.00 coverage, I understand that the Trust would have to be set up with beneficiaries. My question then is, does that mean if the Trust lists one successor trustee, then because they are not listed as "beneficiary," the insurance would only be covered for 100,000.00?*

Answer: Revocable trust accounts must have beneficiaries to receive share insurance as a revocable trust account for share insurance purposes.

Question: *We have a situation where we have the following, what is the coverage? Husband and wife joint account with \$259,000 with a certificate account listing the wife as POD. The basic question is: does a joint account with one of the joint members listed as a POD have \$300,000 of coverage or just \$200,000?*

Answer: From your question, it sounds as if your members have a joint revocable living trust account that contains one share certificate with \$259,000. A husband and wife own the account, and the wife is named as beneficiary. Each person's interest in the account would be \$124,500. The husband's interest would be insured up to \$100,000, as the beneficiary is a qualified beneficiary, his spouse. The wife's interest does have a qualifying beneficiary (she is the beneficiary). Interests held for non-qualifying beneficiaries will be added to the individual accounts of the owners. So wife's interest would be treated as her own individual account, which is insured up to \$100,000. Based on that, it appears the account would be insured up to \$200,000.

Question: *Do you have to open an individual account in order to be insured on revocable (or irrevocable) trust accounts? In other words, does a member need to maintain a personal account separately from a revocable (or irrevocable) trust account?*

Answer: No.

Question: *For insurance coverage purposes, if a credit union requires a beneficiary on individual accounts, do the beneficiar(ies) have to be qualified? or can they be anybody?*

Answer: No. Each member is free to choose the type of accounts and the beneficiaries of their choosing. Their decision, however, may have share insurance implications.

Question: *Has the insurance ever paid out money to cover uninsured amounts?*

Answer: Yes. Take a look at NCUA Letter to Credit Union 91-0223a (June 24, 1991). Please see below for additional information:

§ 745.201 Processing of Insurance Claims.

(a) *Delegations of authority.* The Agent for the Liquidating Agent (“Liquidating Agent”) or his or her designee is authorized to make initial determinations with respect to insurance claims pursuant to the principles set forth in this Part, and to act on requests for reconsideration of the initial determination.

(b) *Initial determination.* **In the event the Liquidating Agent determines that all or a portion of an accountholder’s account is uninsured, the Liquidating Agent shall so notify the accountholder in writing, stating the reason(s) for such initial determination, and shall provide the accountholder with a certificate of claim in liquidation in the amount of the uninsured account from the Board in its capacity as Liquidating Agent for the insured credit union to enable the accountholder to share in the proceeds of the liquidation of the credit union, if any, up to the amount of the uninsured account.** (Emphasis added.)

Question: *I would like clarification on how P.O.D. accounts are insured when there are three or more account owners with qualified beneficiaries. For example if a Mom, Dad, and Daughter are joint owners with three of the Daughter's children listed as beneficiaries. How much would this account be insured for? What category would it be insured under (i.e. individual, joint, trust, etc.)? Why would it be insured in the given category?*

Answer: If you have a POD account with three joint owners, the account would be treated as a revocable trust account for share insurance purposes. There is no limitation on the number of owners of such accounts. For revocable trust accounts, if the named beneficiary of a revocable trust account is a spouse, child, grandchild, parent, brother or sister of the account owner, the account shall be insured up to \$100,000 in the aggregate as to each such beneficiary, separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary. So, if you have three account owners of a POD, and a beneficiary is a qualified beneficiary as to all three, each owner would have \$100,000 in insurance protection as to that beneficiary as noted above.

Question: *Can you share the percentage paid out over the pass 5 years between state chartered vs. federal chartered?*

Answer: We are still researching this.

BUSINESS ACCOUNTS

Question: *We received a number of questions concerning whether certain business accounts gained share insurance coverage separate from the account of an owner. Often, the questions concerned business accounts that were opened using the social security number of the owner. NCUA’s share insurance regulations do not address the issue of taxpayer ID and the separateness of accounts. Below is the language concerning business accounts. For more information, you may want to also review Appendix A of Part 745, which gives a few examples. The key thing to remember is this: as long as the account qualifies for membership and the business is engaged in independent activity, it qualifies for share insurance separate from the business’ owner(s).*

Answer: It may be good to review NCUA’s description of how corporation, partnership or unincorporated businesses are insured. Part 745 of their regulations states that: Accounts of a corporation, partnership, or

unincorporated association engaged in any independent activity shall be insured up to (\$100,000) in the aggregate. The account of a corporation, partnership, or unincorporated association not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership or unincorporated association and, for account insurance purposes, the interest of each person in such an account shall be added to any other account individually owned by such person and insured up to the SMSIA in the aggregate. For purposes of this section, "independent activity" means an activity other than one directed solely at increasing insurance coverage.

Question: *How does the share insurance work with an LLC account?*

Answer: A limited liability company, commonly called an "LLC," is a business structure that combines the pass-through taxation of a partnership or sole proprietorship with the limited liability of a corporation. Like owners of partnerships or sole proprietorships, LLC owners report business profits or losses on their personal income tax returns; the LLC itself is not a separate taxable entity.

All funds invested in an account or accounts by a corporation, a partnership or an unincorporated association that is engaged in any independent activity are added together and insured to the maximum of \$100,000. NCUA defines "independent activity" to be any activity other than one directed solely at increasing insurance coverage. Otherwise any account held by the entity is insured as if owned by the persons owning or comprising the entity and any interest is aggregated to the person's individual account for insurance purposes. See 12 C.F.R. § 745.6.

MISCELLENOUS

Question: *What is the amount that HSA accounts are insured for?*

Answer: HSAs qualify for NCUA share insurance if the owner of the funds is a member or otherwise eligible to maintain an account in an insured credit union; funds may be insured as an individual account or, if a qualified payable-on-death beneficiary is named, as a revocable trust. 12 C.F.R. §§745.0, 745.3, 745.4. Please see NCUA Legal Opinion Letter 07-0113 (March 21, 2007) for more details.

Question: *How does NCUA insure a Uniform Transfers to Minors Act(UTMA) account?*

Answer: An UTMA account is a custodial account where funds in the account are actually owned by the child. The account would be considered a single ownership account and would be insured to the \$100,000 maximum. "Funds held by a guardian, custodian or conservator for the benefit of his ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited in one or more accounts in the name of the guardian, custodian, or conservator are insured up to the SMSIA in the aggregate, separately from any other accounts of the guardian, custodian, conservator, ward, or minor. 12 C.F.R. § 745.3(b).

Question: *Other than NCUA's brochure entitled "Your Insured Funds," what other sources of information are available to me for questions on share insurance?*

Answer: Part 745 is the section of NCUA's rules and regulations that covers share insurance. The appendix to Part 745 is an excellent resource because it serves as a "frequently asked questions" guide. The appendix offers numerous specific examples of share insurance coverage for different types of accounts.

Question: *We have minor accounts that are restricted not by state law but by cu policy. The minor does not sign the account agreement but the account is reported under their SSN. There must be a parent or guardian on the account and the parent is the only one that can withdraw - the child can deposit funds or*

cash a check against the account but not make a withdrawal w/o parent signature - does the minor have any share insurance coverage separate from the parent?

Answer: The following comes from the appendix to NCUA's Share Insurance Regulation: "Any individual, including a minor, may be a co-owner of a joint account. Although, generally, each co-owner must have signed an account signature card and must have the same rights of withdrawal as other co-owners in order for the account to qualify for separate joint account insurance, there is an exception for minors. If state law limits or restricts a minor's withdrawal rights—for example, a minimum age requirement to make a withdrawal—the account will still be insured as a joint account." From the facts you gave us, the minor would not appear to qualify for joint account ownership. He or she does not have equal rights of withdrawal due to a credit union policy. The following examples are derived from the same appendix noted above, and they should provide additional background.

Example 1

The following accounts are held by members A, B and C,

1. A, as an individual—\$100,000.
2. B, as an individual—\$100,000.
3. C, as an individual—\$100,000.
4. A and B, as joint tenants w/r/o survivorship—\$90,000.
5. A and C, as joint tenants w/r/o survivorship—\$90,000.
6. B and C, as joint tenants w/r/o survivorship—\$90,000.
7. A, B and C, as joint tenants w/r/o survivorship—\$90,000.

Members A and B are husband and wife; C, their minor child, has failed to sign the signature card for Account No. 7. In Account No. 5, according to the term of the account, C cannot make a withdrawal without A's written consent. (This is not a limitation imposed under state law.) In Account No. 6, the signatures of both B and C are required for withdrawal. A has provided all of the funds for Accounts numbered 5 and 7 and under state law has the entire actual ownership interest in these two accounts.

Question: *What is the insurance coverage?*

Answer: If any of the co-owners of a joint account have failed to meet any of the joint account requirements, the account is not a qualifying joint account. Instead, the account is treated as if it consisted of commingled individual accounts of each of the co-owners in accordance with his or her actual ownership interest in the funds, as determined under applicable state law. (§ 745.8(c)).

Account No. 5 is not a qualifying joint account because C does not have equal withdrawal rights with A. Based on the terms of the account, C can only make a withdrawal if he has A's written consent. Account No. 7 is not a qualifying joint account because C did not personally sign the signature card. Therefore, all of the funds in Accounts 5 and 7 are treated as individually owned by A and added to A's individual account, Account No. 1. For insurance purposes then, A has \$280,000 in one individual account that is insured for \$100,000, leaving \$180,000 uninsured.

Account 6 is a qualifying joint account for insurance purposes since each co-owner has the right to withdraw funds on the same basis. Account 4 is also a qualifying joint account. A's interest in Account 4 is insured for \$45,000. B's interest of \$45,000 in Account 4 is added to her interest of \$45,000 in Account 6 and insured for \$90,000. C's interest in Account 6 is insured for \$45,000.

Example 2

Question: Assume the same accounts as Example 5(a) except that, on Account No. 5, C's right to make a withdrawal is limited by state law which precludes a minor from making a withdrawal without the co-owner's written consent. What is the insurance coverage?

Answer: In this situation, Accounts 4, 5, and 6 all qualify as joint accounts. A, B, and C will each have \$90,000 of insured funds based on: A's interest in Account 4 (\$45,000) and five (\$45,000), B's interest in Accounts 4 (\$45,000) and 6 (\$45,000), and C's interest in Accounts 5 (\$45,000) and 6 (\$45,000). As in Example 5(a), Account No. 7 does not qualify as a joint account and would be added to A's individual account for insurance purposes.

Question: We currently allow our members to put an IRA account under the same member number as their other share accounts - would the IRA still be covered separately - it is reported to the IRS separately and has a separate agreement?

Answer: Yes, although the more clear your account records can be, the better. NCUA has indicated that subaccounts can qualify for different types of NCUA share insurance protection. The fact that you report this separately and have a separate agreement should be enough to show NCUA personnel that these accounts are separate. However, it is important for credit unions to maintain account records in a way to allow NCUA to properly determine what insurance protection applies to which accounts. Having one account number with little or no documentation to show the ownership of different subaccounts might place share insurance at risk. The clearer the account records, the less likely it will be that NCUA will incorrectly determine share insurance protection.

Question: Is a share certificate within an account eligible for insurance if the CD has a different ownership set up?

Answer: Yes.

Question: Where can we obtain other information about share insurance?

Answer: Here are some share insurance resources from NCUA:

- How Your Accounts Are Federally Insured ([English](#)) ([Spanish](#))
- Your Insured Funds ([English](#)) ([Spanish](#))
- [NCUA Increases Retirement Insurance Coverage \(Special Bulletin\)](#)
- [Media Release - Federal Insurance Protection Strong At Mid-Year \(July 14, 2008\)](#)
- [NCUA Insurance Regulations](#).