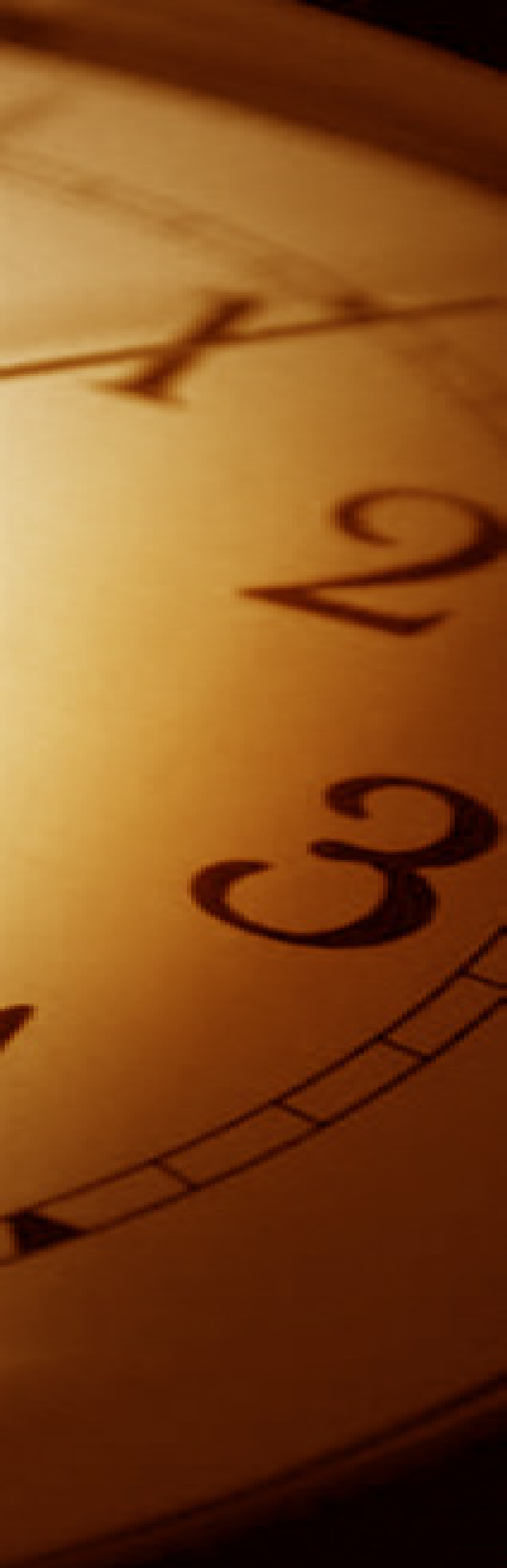

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Top Ten Risks in Trust Administration

Risks

B BSA / AML
A Acceptance
D Documentation

D Disbursements
U Unique Assets
I Investments

S Service
C Conflicts
A Administration
R Revenue

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BSA / AML

Duty to Comply

- **Risk Statement**: Lack of adequate controls over consumer & other regulations (ie. BSA, FACT Act, etc.) can result in various business concerns, violations of laws and regulations and potential fines, surcharges, and/or other negative impacts.

  Risk Causes: Inadequate account opening procedures fail to capture CIP, Source of Funds, OFAC reviews and transactional data for risk rating accounts. Lack of monitoring, supervision and training leads to failures in suspicious activity identification and reporting. Inadequate controls over funds transfers lead to AML concerns. Lack of training and controls over client information and identification of red flags can lead to ID theft and abuse of elderly clients.

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Account Acceptance Process

- **Risk Statement**: Marginal and/or ineffective account acceptance processes, including policies, procedures, and oversight provide and environment for increased risks. Account acceptance procedures are inadequately designed to ensure accounts with difficult to manage terms or insufficient expertise can lead to improper administration and hard to manage accounts. Accepting assets that are difficult to manage or high risk can result in environmental issues or costly asset management and custody issues.

Duty to Exercise Reasonable Care & Skill

Risk Causes: The generation of new business remains paramount to the viability of the business. As such, account sales goals have been increased and additional pressure has been placed upon the unit for account growth. As a result Account Acceptance processes may be compromised. In addition, poor or ineffective policies, procedures and oversight result in increased risk with new accounts. Inadequate account opening policies and procedures including initial account acceptance, document review for terms and conditions, initial review of assets for proper administration and consistency with investment objectives and inadequate collection of account opening documentation.

Disbursements

- **Risk Statement**: Discretionary distributions (ie. improper allocation of income and principal) and lack of proper discretionary distribution controls can leave beneficiaries and future interests (remainderman) without adequate benefits. Ineffective policies and oversight can lead to unauthorized distributions by unauthorized individuals.

Duty of Impartiality

Risk Causes: Lack of proper interpretation of dispositive language in governing instrument. Lack of proper discretionary oversight by trained individuals or committee. Lack of proper document retention practices (ie. beneficiary requests). Lack of sufficient and accurate synoptic information. Ineffective procedures and "this is how we always have done it" attitude.

Documentation

Duty to Obtain and Segregate Records & Furnish Information

- **Risk Statement**: Poor file documentation and client correspondence can cause problems in account transitions, as well as lead to weak or no support during account disputes and/or litigation.

  Risk Causes: Staff turnover and the focus on expense reductions and efficiencies has lead to concerns in file documentation. While a tremendous amount of information can be captured in email, there remains weaknesses in the documentation of client phone calls and meetings, support for client direction including retention of off-list holdings and investment restrictions, co-trustee approvals of material account decisions, discretionary distributions etc.

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Unique Assets

- **Risk Statement**: Operational and compliance risk is increased when unique assets are not properly recorded, administered, and controlled. Unique assets must be included in the account objective decisions and ongoing administration. Proper pricing is needed to ensure that regulatory reports are accurate and correct. Valuation standards are needed for consistency. Administrative procedures need to be specific to each type of unique asset. Summary reports are needed to ensure a thorough understanding of the assets held and their value.

  Risk Causes: More accounts are being accepted that contain unique assets, including Real Estate, Closely Held Businesses, LLCs, Partnerships, notes and mortgages, life insurance policies, and other unique holdings. In addition, the OCC Handbook for Special Assets came out in August of 2012 and increased attention is being given to this area.

Duty to Take Control of Trust Property

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Investment of Fiduciary Assets

Duty to Invest and Generate Reasonable Income

- **Risk Statement**: Lack of controls and adequate oversight of Investment Management practices can lead to improper investment strategies, client and beneficiary objectives not being met and possible litigation and regulatory concerns. Also, allowing cash to go uninvested or underinvested for an inordinate amount of time can lead to concerns over the proper administration of accounts and/or regulatory concerns and potential performance issues and shortfalls for income beneficiaries and account expenses.

  Risk Causes: Simple lack of understanding of the investment objectives of the Grantor and/or beneficiaries; Inadequately documenting accounts to ensure they are invested appropriately; Lack of documented direction to hold Off-List and unique assets; Lack of understanding the account's Income & Principal requirements; Lack of regular communication with clients on changing family dynamics and needs; Not executing customer or co-trustee direction; Lack of performing initial and ongoing investment reviews and portfolio realignment; Inadequate due diligence over third-party investment managers; Lack of proper investment strategy for initial investment or periodic account enrichments; Not activating internal sweep vehicles; Inadequate communication between Business Development, Administration and Investment staff; Utilizing own bank deposit products and not performing adequate review of comparable money funds or other temporary investment vehicles.

Service Quality

Duty to Communicate

- **Risk Statement**: Account terminations/closures due to aging population, organic terminating events, poor administration, investment performance, resulting in lost business, reduced fee revenue and potential safety and soundness issues.

  Risk Causes: Poor client retention practices include, lack of regular client contact, lack of anticipating termination and distribution events, lack of adequate complaint resolution procedures for administrative and investment issues (ie. performance).

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Conflicts of Interest

- **Risk Statement**: Inadequate controls over the use of own bank products ie. mutual funds other affiliated products, like securities underwritings, derivatives etc. can lead to numerous conflicts of interests. In addition, employees (both direct and from affiliates) need to be aware of and understand those situations that can create a conflict of interest.

Duty of Undivided Loyalty

Risk Causes: The repeal of Glass Steagle 1999 and implementation of the Gramm, Leach Bliley Act ushered in a new era of investment banking by national banks, broker dealers and mutual funds that required heightened risk management practices. This placed an enormous burden on trust departments to be vigilant and install monitoring controls with respect to affiliated products like money market funds used as sweep vehicles for example.

Account Administration

Duty to Administer & Account

- **<u>Risk Statement</u>**: Ineffective controls that ensure the provisions and articles of the trust instrument or contract establishing the relationship are properly managed. Inadequate or unskilled staffing of trust professionals who interpret and administer these provisions can lead to mismanagement of fiduciary accounts and possible misappropriation of trust funds.

  <u>Risk Causes</u>: Lack of board approved policies and procedures that are tailored to the size nature and complexity of the business. Inadequate staffing or unskilled trust professionals to accept accounts interpret provisions of the agreement. Inadequate governance and oversight of the business and key trusts requirements such as discretionary distributions of income and principal.

Revenue and Fees

Reasonable Compensation

- **Risk Statement**: Fees and revenue are insufficient to adequately manage the business resulting in staffing, client service issues and safety and soundness concerns. Insufficient information or poor reporting to the Trust Committee and Board results in poor decisions and initiatives. Revenue goals and objectives often based on expense reduction and not on revenue opportunities.

  Risk Causes: Inadequate and untimely setup of account fees, fee concessions and lack of adequate fee reporting to the board (ie. appropriateness of ongoing fee waivers and discounts).

Contact Information

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