

TRUST

Core Analysis Decision Factors

Examiners should evaluate the Core Analysis in this section to determine if an Expanded Analysis is necessary. Click on the hyperlinks found within each of the Core Analysis Decision Factors to reference the applicable Core Analysis Procedures.

Do Core Analysis and Decision Factors indicate that risks are appropriately identified, measured, monitored, and controlled?

C.1. Are policies, procedures, and other methods for limiting risk adequate? Refer to Core Analysis [Procedures #12-13](#).

C.2. Are internal controls adequate? Refer to Core Analysis [Procedures #14-28](#).

C.3. Are the audit or independent review functions adequate? Refer to Core Analysis [Procedures #29-34](#).

C.4. Are information and communication systems adequate and accurate? Refer to Core Analysis [Procedures #35-36](#).

C.5. Are trust department earnings adequately managed and sufficient to support the institution's fiduciary activities? Refer to Core Analysis [Procedures #37-43](#).

C.6. Does the institution comply with internal policies and procedures, governing instruments, applicable laws and regulations, and sound fiduciary principles? Refer to Core Analysis [Procedures #44-54](#).

C.7. Are asset management and investment advisory practices adequate? Refer to Core Analysis [Procedures #55-89](#).

C.8. Do the board and senior management effectively supervise fiduciary activities? Refer to Core Analysis [Procedures #90-102](#).

TRUST

Core Analysis Procedures

Examiners are to consider the following procedures but are not expected to perform every procedure at every bank. Examiners should complete only the procedures relevant for the bank's activities, business model, risk profile, and complexity. If needed, based on other identified risks, examiners can complete additional procedures. References to laws, regulations, supervisory guidance, and other resources are not all-inclusive.

Preliminary Review

1. Review prior examination reports, work papers, and file correspondence for an overview of any previously identified deficiencies or higher risk issues.

2. Review internal and external audit reports, engagement letters, and management responses.

3. Review remedial actions taken by management to correct audit and examination deficiencies.

4. Review other sources to determine the general risk profile of the trust department and identify the types of accounts administered (e.g., personal trust, corporate trust, employee benefit (defined contributions, defined benefit, and investment management). Consider the following: <ul style="list-style-type: none"> • Schedule RC-T in the FFIEC Reports of Income and Condition (Call Reports); • Other regulatory reports, examinations, investigations, and correspondence from state banking authorities, Securities and Exchange Commission, FINRA, or Department of Labor; • Public information such as stockholders reports, the bank's Internet site, press releases, and published news stories; • Current trust department Statement of Assets and Liabilities or trust department Statement of Condition; • Responses to the First Day Letter and the Trust Officer's Questionnaire; • Customer complaints, including complaints received by the FDIC, FRB, or state; and • Pending or threatened litigation.

5. Determine whether the trust department administers or uses common trust funds, collective investment funds, proprietary mutual funds, or other pooled investment vehicles.

6. Determine which of the following activities should be reviewed given the trust department risk profile:
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- **Securities lending,**
- **Fiduciary services delivered via electronic banking channels,**
- **Employee benefit participant record keeping,**
- **Fee sharing arrangements, including receipt of 12b-1 or sub-accounting fees from mutual funds,**
- **Services provided to or received from third parties,**
- **Sweep arrangements/cash management,**
- **Soft dollar arrangements,**
- **Institutional custody,**
- **Use of outside investment advisors,**
- **Open Architecture/Separately Managed Accounts,**
- **Securities transactions (i.e., compliance with the SEC/FRB Regulation R and GLBA broker exception rules.)**

7. Review regulatory information concerning any purchase, acquisition, or merger activity since the last examination.

8. Discuss the following issues with management, focusing on significant changes since the last examination or planned changes:

- **Key personnel and staffing,**
- **Organizational structures,**
- **Operations and automated systems,**
- **Marketing strategies,**
- **New products and services,**
- **Investment strategies, and**
- **SEC/FRB Regulation R and GLBA broker exception rules.**

9. Review the following information regarding management of the trust department:

- **Minutes of meetings of the board of directors and trust related committees;**
- **Organizational charts;**
- **Committee composition and structure; and**
- **Management information reports, such as:**
 - **Net overdrafts and other account liabilities,**
 - **Large cash balance reports,**
 - **Past-due loans (including participant loans in employee benefit accounts), and**
 - **Delinquent fee reports.**

10. Determine the scope of the account review. Consider the following:

- **General account selection criteria:**
 - Pending or threatened litigation,
 - Customer complaints,
 - Previous examination criticisms,
 - New and closed accounts,
 - Successor appointments,
 - Co-fiduciary relationships,
 - Internal watch lists and accounts risk rated inherently “high” (e.g. ERISA-governed accounts),
 - Assets not carried on the department's books,
 - Accounts with liabilities,
 - Accounts lacking diversification,
 - Accounts holding unique assets (such as real estate, mineral, oil and gas interest, and limited partnerships), and
 - Administratively complex assets held in discretionary and investment advisory accounts;
- **Actual or potential conflicts of interest, such as:**
 - Discretionary investments in own institution or parent securities and deposits,
 - Discretionary investments in securities and other obligations of insiders,
 - Discretionary investments in proprietary products (such as mutual funds, insurance, and annuities),
 - Inter-trust transactions, and
 - Accounts where insiders serve as co-fiduciary;
- **Employee benefit accounts with plans that:**
 - Cover the institution's employees,
 - Are sponsored by directors or their related interests,
 - Hold participant loans, or
 - Are under investigation by the Department of Labor;
- **Corporate accounts with issues that are:**
 - In default or litigation, or
 - Subject to the Trust Indenture Act; and
- **Estates that have been open for an extended time.**

11. Prepare the examination scope memorandum.

Policies, Procedures, and Other Risk Management Methods

12. Determine whether policies, procedures, and other methods for managing risks are adequate in relation to the institution's risk profile. When applicable, such policies and procedures should address the following:

- **Asset management, including investment reviews,**
- **Account liabilities (including overdrafts),**
- **Account administration and reviews,**
- **Conflicts of interest and self-dealing,**

- Operations and internal controls,
- Securities trading,
- Broker and investment advisor selection,
- New-business development,
- Incentive compensation,
- Selection and retention of legal counsel,
- Ethical standards for trust department personnel,
- SEC/FRB Regulation R/GLBA broker exception rules,
- Investment selections,
- Fee concessions,
- Exception reporting and approval, and
- BSA/OFAC adherence.

13. Determine whether the trust department’s policies and procedures adequately address:

- Privacy issues,
- Electronic banking,
- Electronic funds transfer, and
- Business continuity planning and testing.

Note: Department guidelines may be contained in the institution's general policy framework as well as trust department specific policies.

Internal Controls

CONTROL ENVIRONMENT

14. Determine whether management and the board have provided for:

- Adequate staffing for efficient operational processing and appropriate separation of duties;
- Compensating controls (if limited staffing precludes separation of duties);
- Clearly defined responsibilities, duties, and lines of authority; and
- Proper reporting and prompt correction of internal control deficiencies.

PROTECTING AND CONTROLLING ASSETS

15. Assess the effectiveness of internal controls by considering whether:

- Trust assets are separated from the assets owned by the institution
- Controls over the receipt and release of assets require:
 - More than one institution employee to be present when assets are received or inventoried in a residence, and
 - Account holders or beneficiaries to sign written confirmations for all items distributed to them;
- Assets held in the vault are under dual control and subject to periodic verification;

- The value of worthless assets are appropriately researched, documented, and periodically reviewed;
- Worthless assets are maintained on the department’s books at nominal value;
- Hold and return mail procedures are appropriate;
- Account statements are mailed by trust operations personnel (or an outside data processor) and not the account administrator.
- Procedures over the disbursement of trust funds include:
 - Controls over unissued checks, such as using sequential or pre-numbered documents, and
 - Signature controls and defined authorization limits.

16. Assess arrangements where a registered broker-dealer serves as custodian for trust assets, by considering:

- The adequacy of management’s analysis and documentation (both prior to entering arrangements and periodically thereafter) of the financial strength of the broker-dealer (including SEC/FINRA capital adequacy and Specific Reserve Account requirements); [See SEC Rule 15c3-3(c)]
- The adequacy of the governing written agreement, which should include provisions addressing:
 - Unauthorized conversions of trust assets,
 - Unauthorized securities lending,
 - Rights of offset against unpaid securities, and
 - Termination provisions;
- Whether the records of the broker-dealer segregate customer trust assets from the financial institution's own securities portfolio (for example, customer trust assets could be recorded in the name of the financial institution “as trustee for”);
- Whether State law permits broker-dealers to serve as a custodian for trust assets; and
- The adequacy of Securities Investor Protection Corporation (SIPC) insurance coverage. *(Note: Generally, individual trust accounts must be separately identified on the broker-dealer's records for such accounts to be eligible for SIPC insurance.)*

17. Determine the nature, extent, and adequacy of controls over wire transfer activities. (Refer to Electronic Funds Transfer Risk Assessment ED Module.)

RECORDKEEPING

18. Determine whether internal controls provide for accurate and reliable record keeping and regulatory reporting by considering whether record keeping systems:

- Maintain records in sufficient detail to properly reflect all trust department activities;
- Report the assets of each trust account separately from the assets of every other account;
- Account separately for principal and income in accordance with state requirements or governing account agreements;
- Facilitate the timely and accurate processing of all transactions, including:
 - Securities income,

<ul style="list-style-type: none"> ○ Distributed cash/assets, ○ Securities prices and ratings, ○ Mutual fund and cash sweep transactions (including allocated income and service fees), and ○ Corporate actions that affect security holdings. <ul style="list-style-type: none"> ● Provide for accurate filing of Consolidated Reports of Condition and Income Schedule RC-T; ● Demonstrate compliance with SEC/FRB Regulation R and GLBA broker exception rules, in particular with the “Chiefly Compensated” provision of the Trust & Fiduciary Exception; and ● Provide for accurate and timely reporting of cost-basis information on Form 1099, as well as the provision and receipt of transfer statements. (See IRC §6045 and §6045A)
<p>RECONCILIATIONS</p> <p>19. Determine whether reconciliation procedures are adequate for security depositories, brokerage accounts, internal accounts, mutual funds, and cash management services. <i>Note: The status of all reconciliations should be reported to management on a timely basis.</i></p>
<p>INFORMATION SYSTEMS</p> <p>20. Evaluate the adequacy of internal controls over information systems used by the trust department, including the adequacy of contingency plans for possible failures of critical systems and the frequency with which contingency plans are tested.</p>
<p>OTHER INTERNAL CONTROL MATTERS</p> <p>21. Assess the effectiveness of the department's internal controls in ensuring compliance with applicable laws and regulations.</p>
<p>22. Determine whether appropriate controls exist over securities transactions, including timely execution and proper segregation between account administration and settlement.</p>
<p>23. Determine whether proper procedures are in place to process securities proxies, corporate actions, and other shareholder communications. (Refer to the Shareholders Communications Act of 1985)</p>
<p>24. Determine whether the institution allows daylight overdrafts (a.k.a., free riding) during the securities settlement process in custody accounts. If allowed, consider whether the institution:</p> <ul style="list-style-type: none"> ● Sets guidelines and standards for the acceptance of new custodial accounts, such as customer

<p>background and credit reviews;</p> <ul style="list-style-type: none"> • Requires identification of broker-dealers that will be sending securities and accepting payments from custodial accounts; • Has systems to monitor trading and track accounts involving broker-dealers; • Ensures that each account has sufficient funds to perform any trade, or: <ul style="list-style-type: none"> ○ That temporary overdrafts incurred for the purchase of exchange-traded or margin stocks are secured by collateral margins required in FRB Regulation U, and ○ Form FR U-1 is obtained from customers where credit in excess of \$100,000 is extended; • Rejects customer trades that would result in a violation of FRB Regulation U; • Prohibits temporary overdrafts which could aid a broker-dealer in violating FRB Regulations T or X; and • Has training programs for administrators and operations personnel involved in the securities settlement process.
<p>25. Determine whether the department maintains effective controls over dormant and unclaimed funds to ensure that such funds are adequately documented, monitored, aged, and escheated as required by applicable state law.</p>
<p>26. Evaluate the institution's process for providing customer account statements and other information.</p>
<p>27. Ensure that account administrators are not involved in the account statement generation and distribution process.</p>
<p>28. Determine whether original trust documents are adequately protected and copied/backed up.</p>
<p>Audit or Independent Review</p>
<p>29. Determine whether the board provides for an annual or continuous audit of fiduciary activities.</p>
<p>30. Determine whether the scope of audit coverage is commensurate with the level of risk associated with fiduciary activities. Determine whether audit activities adequately evaluate:</p> <ul style="list-style-type: none"> • The accuracy and validity of transactions; • Fee calculations, collections, and waivers;

- **Compliance with governing instruments, internal policies, statutory and regulatory requirements, and securities laws and regulations such as SEC/FRB Regulation R and GLBA broker-exception rules;**
- **Internal routines and controls;**
- **Account administration practices such as documentation of:**
 - **Trust agreements and court orders,**
 - **Income receipts and distributions,**
 - **Principal invasions such as appropriate approvals,**
 - **Receipt of assets,**
 - **Co-fiduciary and grantor approvals,**
 - **Beneficiary and third-party approvals,**
 - **Unique assets, and**
 - **Annual administrative and investment reviews;**
- **Management information systems;**
- **Verification of assets;**
- **Trust committee minutes;**
- **Trading activities; and**
- **Assessment of management's corrective actions.**

31. Assess the adequacy of audit reporting procedures and consider whether:

- **Formal reports are provided to the board of directors or appropriate committee;**
- **Audit reports include a summary of the effectiveness of internal controls in the trust department;**
- **Audit findings, including actions taken as a result of the audit, are recorded in the board minutes or appropriate committee minutes; and**
- **Audit program deviations are appropriately reported and approved.**

32. Determine the reason for any change in internal or external auditors.

33. Evaluate auditor independence and consider whether:

- **The in-house audit function is free from the undue influence of senior management, and**
- **External audit providers perform other services for the institution that could adversely affect the independence of audit findings.**

34. Evaluate auditor experience and expertise.

Management Information Systems
<p>35. Determine whether written reports and communication processes provide sufficient information to enable the board, senior management, and staff to make appropriate risk management decisions. Review the information provided to the board, trust committee, and trust-related subcommittees to determine the quality, accuracy, timeliness, and completeness of reporting on items such as:</p> <ul style="list-style-type: none"> • New and closed accounts; • New products, business opportunities, and marketing programs; • Emerging risks; • Accounts involving administrative difficulties; • Accounts involving complaints or threatened/pending litigation; • Conflicts of interest; • Investment strategies and performance, including common and collective investment funds and proprietary investment products; • Exposures to counterparties; • Activities experiencing sustained or significant losses; • Exceptions from established policies, procedures, and risk limits; • Audit and regulatory reports; • Profitability; • Corporate trust issues in default; and • Significant discretionary actions.
<p>36. Determine whether trust department personnel have sufficient, timely, accurate, and meaningful information to perform their responsibilities.</p>
Earnings
<p>37. Determine whether management's methodology for measuring trust department profitability is reasonable and commensurate with the volume and nature of services.</p>
<p>38. Assess the adequacy of the board or designated committee reviews of trust profitability. Consider the scope and frequency of reviews, including analysis of material business lines and individual accounts.</p>
<p>39. Assess the department's historical, current, and projected earnings by considering:</p> <ul style="list-style-type: none"> • The level and trend of earnings; • Whether revenues are sufficient to support overhead and provide a return commensurate with the risks assumed; • The materiality of surcharges, losses, and litigation costs;

<ul style="list-style-type: none"> • The significance of credit for deposits (if the institution calculates it); • The impact of nonrecurring expenses or revenues; • The department's reliance on large fee-producing accounts; and • Management's opinion of material future events that may impact earnings such as threatened or pending litigation, new business opportunities, and competition.
<p>40. In institutions where trust services are offered as a benefit to the community, and profit is not the primary motivation, determine whether the board:</p> <ul style="list-style-type: none"> • Periodically evaluates whether trust services provide an essential service to customers or the community, and • Establishes guidelines with respect to the amount of recurring losses that are acceptable if trust services cannot be offered profitably.
<p>41. Evaluate the adequacy of the budget process by considering:</p> <ul style="list-style-type: none"> • Comparisons of forecasted to actual earnings performance; • The reasonableness of growth and profitability assumptions; • Whether forecasted earnings are sufficient to support fiduciary activities; and • Whether the board or a designated trust committee periodically approves, reviews, and revises the budget.
<p>42. Review the department's marketing plan, if any, and consider whether the plan:</p> <ul style="list-style-type: none"> • Establishes reasonable goals and strategies for attaining goals, • Clearly defines marketing responsibilities for marketing staff and/or account administrators, • Includes any incentive pay, • Identifies appropriate products and target customer groups, and • Provides for periodic progress reports.
<p>43. Evaluate any internal or external reports, analyses, or recommendations pertaining to trust profitability, including those contained in audit or consultant reports.</p>
<p>Compliance</p>
<p>ACCOUNT ADMINISTRATION</p>
<p>44. Determine whether account administration is adequate by reviewing a sample of accounts.</p>

45. Assess compliance with governing instruments by considering whether:

- Account files contain all necessary governing documents;
- Account officers are familiar with the terms of governing instruments;
- The trust department's actions, such as investments, co-fiduciary approvals, and discretionary distributions, are authorized under governing documents;
- The trust department is performing all fiduciary duties prescribed in the governing documents; and
- Synoptic records are accurate.

46. Determine whether account documentation reflects adequate administration of accounts. Review and consider:

- Synoptic records;
- Notes in files and customer call reports;
- Administrative and annual investment reviews;
- Minutes of committee(s) responsible for review accounts;
- Any problem issues with an account including problem grantors and/or beneficiaries; and
- Any documentation pertaining to litigation in an account.

47. Evaluate the trust department's administrative review process.

- Determine whether administrative reviews are:
 - Performed promptly and in accordance with account risks;
 - Performed by the trust committee, subcommittee, or disinterested account officer; and
 - Appropriately documented.
- Determine whether deficiencies are monitored and corrected in a timely manner.

48. Determine whether customer complaints are appropriately addressed.

OPENING AND CLOSING ACCOUNTS

49. Determine whether account acceptance practices are adequate by considering:

- Management's assessments of:
 - Real or potential conflicts of interest,
 - Unusual circumstances or administrative complexities,
 - The account's objectives and asset holdings,
 - The legal sufficiency of governing instruments,

- Environmental risks associated with real property,
- Whether actions require third-party approvals (such as by a co-trustee or court), and
- The expertise of trust department personnel;
- Procedures for avoiding potential liability such as obtaining:
 - Proof of the prior trustee's resignation or removal,
 - Prior accountings, and
 - Indemnification from the prior trustee or account beneficiaries for acts of the prior trustee;
- Whether all necessary governing instruments and supporting documentation are received and appropriately reviewed prior to accepting the account;
- Whether account fees are commensurate with risk levels and administrative duties; and
- Account set-up processes and whether there are appropriate secondary reviews.

50. Assess the adequacy of account closing procedures by considering whether:

- Necessary releases/receipts and discharges are obtained;
- Final accountings and tax returns are filed;
- Assets are properly distributed in a timely manner;
- Fees and expense reimbursements are received;
- Closed accounts are approved by the board or a board committee;
- Court releases are obtained when applicable; and
- The institution appropriately retained copies of all relevant documents.

CONFLICTS OF INTEREST

51. Determine whether the trust department identifies and monitors actual and potential conflicts of interest and self-dealing. Consider the following potential conflicts:

- The use of material inside information, including information arising from commercial bank relationships;
- Use of own-bank products and services such as deposit accounts, loans, proprietary mutual funds and brokerage services;
- Receipt of fees from other sources, including fees from mutual funds and sweep fees;
- Relationships with brokers and other agents, including soft-dollar arrangements;
- Investments in own-bank or affiliated securities;
- Transactions involving insiders or their interests;
- Proxy voting, including own-bank or affiliated securities;
- Investment in securities underwritten by the bank or affiliates; and
- Inter-account and multi-account transactions.

52. Assess conflict-of-interest controls by considering whether management:

- Makes full disclosures;

- Obtains appropriate consents;
- Obtains court approvals;
- Resolves conflicts in favor of account beneficiaries;
- Complies with self-dealing restrictions in the Employee Retirement Income Security Act, Internal Revenue Code, and state laws; and
- Obtains independent, reasoned legal opinions.

LAWS AND REGULATIONS

53. Determine whether the institution complies with applicable federal and state statutes and regulations, such as:

- Employee Retirement Income Security Act (ERISA) and related Department of Labor regulations;
- State fiduciary statutes, including the Uniform Trust Code and Prudent Investor Act; and
- Federal Deposit Insurance Act Section 11(a) prohibitions on the acceptance of deposits from employee benefit plans if the institution is less than adequately capitalized.

54. Determine whether common and collective investment funds are operated in accordance with applicable laws and regulations. (Note: If the Pooled Investment Vehicles Module is completed, document procedures in that module.)

Asset Management

55. Determine whether the board of directors, trust committee, or related subcommittee has approved general investment and administrative guidelines.

56. Review internal and external investment research methods and evaluate management's due diligence in selecting assets for purchase.

57. Determine the appropriateness of criteria for including or excluding securities from the approved list of investments.

58. Assess the process for retaining or selling assets that do not meet established investment criteria.

<p>59. Review the methods for developing investment strategies and determine whether such strategies are consistently applied.</p>
<p>60. If the institution uses open architecture or offers separately managed accounts, consider the adequacy of:</p> <ul style="list-style-type: none"> • Due diligence governing the selection and retention of outside asset managers, • On-going monitoring of the performance of outside managers, and • Operational systems supporting open architecture and separately managed accounts.
<p>61. Determine whether quantitative and qualitative measurement tools are used in the asset management process, and consider whether the tools adequately evaluate and monitor financial risks.</p>
<p>62. Determine whether sales commissions or fee arrangements, such as 12b-1 fees received from mutual funds, do not unduly influence investment decisions. (Note: Refer to the Pooled Investment Vehicles Module for additional considerations.)</p>
<p>63. Determine whether guidelines for using asset allocation models as a basis for making investment management decisions are in place, and consider:</p> <ul style="list-style-type: none"> • Which accounts will be invested based on modeling information, • How portfolios will be monitored to ensure they remain within model guidelines, and • How investment objectives are determined and monitored.
<p>64. Evaluate the appropriateness of investments in own-bank deposits and documentation that own-bank deposits receive a competitive rate of interest.</p>
<p>65. Review the use and performance of pooled investment vehicles, including proprietary and third-party mutual funds, common trust funds, collective investment funds, and, if applicable, conversions of common and collective funds to mutual funds. (Note: If the Pooled Investment Vehicles Module is completed, document procedures in the reference module.)</p>
<p>66. Evaluate the use of derivatives and other complex securities. (Refer to the Personal Trust Module,</p>

<p><i>FDIC Capital Markets Handbook, or FRB Trading and Capital Markets Activity Manual for specific considerations.)</i></p>
<p>67. Determine whether exceptions to investment guidelines are appropriately reported, documented, approved, and monitored.</p>
<p>68. Review any securities lending activity. (Refer as needed to the Employee Benefit Reference Module)</p>
<p>69. Assess practices for establishing discretionary account objectives. Determine whether the institution considers:</p> <ul style="list-style-type: none"> • General economic conditions, • Tax consequences, • Other resources of the grantor or beneficiaries, • Expected total returns, • Liquidity and income needs of beneficiaries, • Beneficiary requests, • Purpose of the trust, • Limitations of the governing instrument, • Requirements for preservation or appreciation of capital, • Diversification standards, and • Risk tolerance levels.
<p>70. Determine whether all discretionary accounts receive a documented investment review at least once each year. At a minimum, reviews should:</p> <ul style="list-style-type: none"> • Be performed by an independent person or committee; • Evaluate the continued appropriateness of the account objectives; • Assess the suitability of the account's investments, including tax considerations, risk tolerance, and liquidity needs; • Consider any asset allocation imbalances or lack of diversification; • Compare relative portfolio/account investment performance to established benchmarks and investment objectives; and • Ascertain attributes of investment performance.
<p>71. Determine whether appropriate investment objectives are established when an account is accepted. Also, determine whether investments received in-kind are reviewed within a reasonable time for</p>

<p>suitability and prudent retention.</p>
<p>72. Assess the appropriateness of assets held in discretionary and investment advisory accounts by considering:</p> <ul style="list-style-type: none"> • Requirements of the governing document; • The account's stated objective(s); • Approved investment guidelines; and • Applicable common-law standards, state laws, and federal laws (e.g., prudent person/prudent investor act, ERISA, and Internal Revenue Code).
<p>73. Assess the adequacy of the practices, including valuation methodologies, that the institution uses to administer unique assets. (Note: If the Personal Trust or the Employee Benefit Modules are completed, document procedures in those modules.)</p>
<p>74. Assess the adequacy of cash management practices by considering whether:</p> <ul style="list-style-type: none"> • Cash balances are promptly invested; • Net-overdraft procedures include authorized approvals and controls to ensure overdrafts do not remain outstanding for an unreasonable period; • Fees imposed under cash sweep arrangements are reasonable, comply with state laws, and are properly disclosed to the customer; • Cash investment vehicles have a competitive interest rate; • Management maintains sufficient cash to meet the liquidity needs of individual accounts; and • Cash management vehicles are highly liquid and ensure the preservation of principal.
<p>TRADING AND BROKERAGE</p>
<p>75. Determine whether security transactions effected in a fiduciary or custodian capacity satisfy the requirements for exemption from the definition of “broker” in the Securities Exchange Act of 1934. (Refer to Section 3(a)(4)(B)(iii) of the Securities Exchange Act of 1934, and SEC/FRB Regulation R.) Consider the following requirements:</p> <ul style="list-style-type: none"> • Trust & Fiduciary Exceptions: <ul style="list-style-type: none"> ○ Transactions are effected in a department or division of the bank that is regularly examined for compliance with fiduciary standards; ○ The percentage of relationship compensation to total trust and fiduciary compensation, averaged over the immediately preceding two years, is at least 70% if computed on a bank-wide basis, or more than 50% for each account if computed on an account-by-account basis (refer to Section 10.F of the FDIC Trust Examination Manual for the definition of relationship compensation and details on Regulation R, chiefly-compensated requirements); ○ Securities transactions are effected by a registered broker/dealer;

- Securities transactions are effected in a cross-trade or similar transaction that is not in violation of fiduciary standards or in any other way permitted by the SEC; and
- The institution does not publicly solicit brokerage business. (Note: A bank may, in conjunction with advertising its other trust activities, state that it effects securities transactions as part of its administration of fiduciary accounts.)
- Custody & Safekeeping Exemptions:
 - Employee Benefit, IRA, and Similar Accounts
 - The institution does not advertise that it accepts orders for employee benefit plan accounts or individual retirement accounts or similar accounts (except as part of advertising its other custody and safekeeping activities), and does not advertise that such accounts are brokerage accounts or that the bank's safekeeping and custody services substitute for brokerage accounts;
 - Advertisements and sales literature descriptions of order-taking services should not be more prominent than other aspects of an institution's custody and safekeeping services;
 - No employee of the institution is compensated based on whether a securities transaction is executed, or based on the quantity, price, or type of security involved;
 - The institution is not a trustee or fiduciary, other than a directed trustee;
 - The institution is not acting as a carrying broker; and
 - The institution complies with the Exchange Act Section 3(a)(4)(C) trade execution requirements.
 - Accommodation Trades (i.e. order taking for accounts that are not Employee Benefit, IRA, or similar accounts.)
 - The institution does not advertise that it accepts orders;
 - Sales literature does not state that the bank accepts orders, except as part of describing other aspects of its custodial and safekeeping services;
 - Sales literature should not describe order-taking services more prominently than other aspects of an institution's custody and safekeeping services;
 - No employee of the institution is compensated based on whether a securities transaction is executed, or based on the quantity, price, or type of security involved;
 - Any fee charged or received by the institution does not vary based on whether the bank accepted the order or the quantity or price of the securities bought or sold;
 - The institution is not a trustee or fiduciary, other than a directed trustee;
 - The institution does not provide investment advice or research, make recommendations, or solicit transactions;
 - The institution is not acting as a carrying broker; and
 - The institution complies with the Exchange Act Section 3(a)(4)(C) trade execution requirements.
 - Non-Custodial Third Party Administrators
 - The third-party administrator and the custodial institution that contracted with it must comply with the requirements for Employee Benefit, IRA, and similar accounts; and
 - The third-party administrator does not execute cross trades (other than crossing or netting open-end mutual funds not traded on an exchange) or crossing or netting orders for accounts of the custodial institution.
 - Sub-Custodians
 - Both the sub-custodial and the custodial institution comply with the relevant requirements for Employee Benefit, IRA, and similar accounts or accommodation trades, as applicable; and
 - The sub-custodian bank does not execute cross trades (other than crossing or netting open-end mutual funds not traded on an exchange) or crossing or netting orders for accounts of the custodial institution.
 - Other Exceptions and Exemptions

- Sweep Account/Money Market Fund,
- Networking/High Net Worth – Institutional Customer Referrals,
- SEC Regulation S Securities,
- Securities Lending Transactions,
- Permissible Securities Transactions,
- Stock Purchase Plans,
- Private Securities Offerings,
- Affiliate Transactions,
- Identified Banking Products,
- Municipal Securities, and
- De Minimis.

References: FDIC: Section 10.F of the FDIC Trust Examination Manual; FRB: Regulation R.

76. Evaluate management's efforts to obtain best execution on securities trades.

77. Determine whether credit and operational risks with broker/dealers are adequately controlled. Consider whether the institution maintains an approved list of brokers, broker allocation guidelines, and credit or trading limits.

78. Determine whether an appropriate level of due diligence is performed on all counterparties, even when transactions do not expose the institution to credit risk.

79. Determine whether trade transaction reports include all necessary information to validate the transaction and whether the institution can reconstruct an account's trading history.

80. Determine whether transactions are executed and recorded in a timely manner.

81. Determine whether the allocation of securities and the prices paid for securities are fair and equitable. Consider whether:

- Orders for the same security are received at approximately the same time.
- Securities are purchased and sold in block transactions.
- Buy and sell orders are matched between accounts (i.e., the crossing of buy and sell orders).

<p>82. Determine whether transaction discrepancies (such as failed trades, confirmation conflicts, securities not delivered or received, and pricing inconsistencies) are properly investigated and resolved.</p> <ul style="list-style-type: none">• Review trade investigation logs to determine the number and dollar amount of outstanding disputes.• Determine whether trade metrics (such as trade volumes and the number of failed trades) are reported periodically to management for oversight and risk management purposes.• Determine whether customer complaints are resolved by someone other than the person who executed the trade.
<p>83. Determine whether the institution prohibits traders from effecting personal securities trades. If traders are allowed to effect personal securities trades, determine whether management has established adequate controls to both prohibit and identify front-running, late trading in mutual funds, market timing in mutual funds, and other inappropriate trading practices.</p>
<p>84. Assess the separation of duties for confirming, reconciling, valuing, clearing, accounting, receiving, and disbursing assets related to trading and brokerage activities.</p>
<p>85. Determine whether access to trading programs is properly controlled. Consider, whether the programs prevent or identify late-trading or market-timing activities in mutual funds and whether only authorized personnel can initiate trades.</p>
<p>86. Determine whether broker statements are sent directly to accounting or operations personnel and not to trading personnel.</p>
<p>87. Determine whether discrepancies on broker statements are directed for resolution to someone outside the trading function.</p>
<p>88. Determine whether trading activities are covered in the audit program and whether the scope of review is appropriate for the level of activity.</p>
<p>89. Review management's compliance with securities record-keeping and confirmation requirements,</p>

including reports of personal securities trading. (FDIC: Part 344/FRB: Reg. H)
Board and Senior Management
90. Determine whether board and trust committee minutes and supporting documentation reflect adequate supervision of fiduciary activities.
91. Determine the purpose and function of each trust sub-committee.
92. Determine whether organizational and committee structures are appropriate and provide for clearly defined lines of authority and responsibility.
93. Determine whether the trust committee meets at least quarterly and maintains comprehensive minutes of meetings held and actions taken.
94. Determine whether attendance by board and committee members is satisfactory.
95. Assess the board, trust committee, and management's ability to plan and respond to changing business conditions and determine whether fiduciary activities are adequately considered in the institution's strategic planning process.
96. Determine whether a dominant official exerts significant influence over department operations. If so, assess the adequacy of the Board's oversight and mitigating controls.
97. Determine whether management takes adequate and timely corrective action to address recommendations by auditors and regulatory authorities
98. Determine whether the board retains legal counsel when necessary.

<p>99. Determine whether the board provides for adequate insurance of fiduciary activities and periodically reviews blanket bond, errors and omissions, and other applicable insurance coverage.</p>
<p>100. Determine whether fiduciary lines of business are managed and staffed by persons with requisite knowledge, experience, and expertise. Consider the background of key management personnel and the adequacy of training for management and staff.</p>
<p>101. Determine the adequacy of management succession plans.</p>
<p>102. Evaluate management's due diligence process for selecting and monitoring outside service providers (e.g. investment managers, investment advisors, consultants, custodians, broker/dealers, etc.). Determine whether:</p> <ul style="list-style-type: none"> • Delegations of fiduciary responsibility by the institution are authorized under state law. • The board or its designated committee conducts and documents an adequate due diligence review before contracting with a third party. Consider whether the board evaluates the: <ul style="list-style-type: none"> ○ Financial strength of the servicing organization, ○ Ability of the servicing organization to handle the volume and nature of trust accounts and assets to be serviced, ○ Investment results of the servicing organization, ○ Policies/procedures and controls of the servicing organization, ○ Audit coverage of the servicing organization (including SSAE 16 reports if available), and ○ Fidelity insurance coverage of the servicing organization. • Determine whether written agreements clearly define the scope and terms of any third-party relationships, including: <ul style="list-style-type: none"> ○ Duties and responsibilities of each party, ○ Service level agreements, ○ Business resumptions plans for critical vendors, ○ Compensation and any cost sharing agreements, ○ Ownership of files and records, ○ Access to trust accounts or activities by auditors and regulators, ○ Terms under which an agreement may be terminated, ○ Liabilities of each party in the event of surcharges or losses, ○ Requirements for bonding or fidelity insurance, and ○ Privacy responsibilities. • Determine whether the board or a designated committee periodically reviews and approves written agreements with third parties and monitors performance and compliance with written agreements.

End of Core Analysis. If needed, Continue to the Expanded and Impact Analyses.