Trust

Examiners should evaluate the above-captioned function against the following control and performance standards. The Standards represent control and performance objectives that should be implemented to help ensure the bank operates in a safe and sound manner, and that the entity's objectives are carried out. Associated Risks represent potential threats to the bank if the standards are not achieved and maintained. The Standards are intended to assist examiners in analyzing important functions that may warrant additional review. All of the following Standards may NOT need to be considered at every bank. Conversely, these do NOT represent all of the control and performance standards needed for every bank. Examiners should continue to use their judgement when assessing risk.

Standards	Associated Risks
MANAGEMENT AND CONTROL	
The board has established appropriate policies and procedures.	Inadequate policies may expose the institution to increased risk.
Adequate staffing provides for efficient processing and separation of duties.	Insufficient staff may result in processing errors and losses.
Compensating controls offset limited staff and enhance the internal control environment.	Absence of compensating controls may weaken the internal control environment.
Comprehensive and current procedure manuals facilitate an effective operating environment.	Absence of effective procedure manuals weakens internal controls.
Automated processing improves efficiency and internal control.	Dependence on manual processing may be inefficient and increase the risk of errors.
Appropriate joint custody, dual control and vault controls protect and safeguard trust assets.	Weaknesses in joint custody, dual control and vault controls, may lead to defalcations.
Controls over securities movements promote effective internal safeguard.	Lack of appropriate controls over securities movements may result in errors, customer complaints and losses.
Periodic verification of assets strengthens protection and control of trust assets.	The absence of periodic verifications increases the risk that fraud and other irregularities will go undetected.
Effective controls over disbursement of trust funds promotes protection and control of trust assets.	Lack of well-controlled disbursement procedures can result in losses and defalcations.
Effective internal processes and controls promote date integrity and reliable record keeping and facilitate compliance with laws and regulations.	Failure to maintain accurate and reliable records causes losses, customer complaints, inaccurate regulatory reports and noncompliance with laws and regulations.
Appropriate reconciliation practices and procedures enhance accurate and reliable record keeping.	Absence of adequate reconciliation procedures increases the potential for errors and irregularities to go undetected and unresolved.
Effective information system controls strengthen the internal control environment.	Lack of appropriate information systems controls increases possibility of fraud.
Contingency plans minimize problems due to unanticipated events.	Lack of contingency plans jeopardizes the continued operation of the trust department.
Appropriate controls over securities transactions promote timely execution and segregation of account administration and the settlement process.	Absence of appropriate controls may result in errors and losses.
The board establishes an effective audit program and takes timely corrective action in response to audit recommendations.	Operational weaknesses may not be found or corrected; financial or regulatory reporting may be unreliable; and compliance with laws, regulations, trust instruments, and internal policies may be jeopardized.

Standards	Associated Risks
Information systems provide management with relevant information	Ineffective information systems could lead to uninformed business decisions, inappropriate reaction to external influences or internal results, and lost opportunities. Poor communication could result in inadequate accountability and oversight of trust personnel.
Information systems and management reports provide accurate information concerning trust department earnings performance.	Inadequate knowledge on the earnings performance of the trust department may prevent recognition of situations where the bank receives too little a return for the risk and efforts assumed. Regulatory reports and published statements could be inaccurate.
The board of directors actively monitors and controls trust department earnings.	Poor oversight can lead to weak operating performance, inefficiencies and losses.
The board periodically reviews the adequacy of the institution's capital and reserves in relation to risks of fiduciary activities.	Capital levels may be insufficient given the risks of fiduciary activities.
Management complies with governing instruments, laws, regulations and sound fiduciary principles.	Breach of fiduciary principles, violating the terms of governing documents, and violations of law increase exposure to fiduciary, reputation, compliance and transaction risk.
Management complies with established polices and procedures.	Failure to follow established policies increases exposure and potential liability.
Management identifies and responds to account administration weaknesses and deficiencies.	Administrative weaknesses may lead to customer dissatisfaction, breach of fiduciary duty or noncompliance with laws and regulations.
Management and staff have the necessary knowledge and expertise to comply with applicable laws and regulations and to properly administer accounts.	Lack of knowledge or ability increases risk exposure and potential liability.
The investment decision and recommendation process is strong.	A weak decision or recommendation process may hurt the department's reputation and increase potential liability.
Management sufficiently identifies, measures, monitors, and controls financial risk.	Insufficient identification, measurement, monitoring, and control of securities risk can lead to loss of principal or poor investment returns.
Procedures for evaluating and monitoring third parties including consultants, counter parties, brokers, investment advisors and real estate managers are adequate.	Inadequate evaluation and monitoring of third parties increases operation and fiduciary risks.
An independent board of directors assigns responsibility, delegates authority, and establishes policies to provide accountability and control.	The lack of independent oversight could result in a poor control environment. Inappropriate organizational structure may result in problems going uncorrected.
Management possesses knowledge, experience and expertise commensurate with the institution's fiduciary activities.	Inadequate knowledge of fiduciary principles and unqualified or inexperienced management may increase the institution's risk exposure.
The board ensures management and staff receive training as needed.	Inadequate knowledge of fiduciary principles and unqualified or inexperienced management may increase the institution's risk exposure.
Management has developed effective risk	Management may not be effectively controlling the

Standards	Associated Risks
management policies.	risks it has assumed.
The board has a management succession plan.	Inadequate succession and depth may disrupt the institution's operations and adversely affect its profitability.
The board or its designated committee and management fully understand the risks involved in the institution's fiduciary activities, have established appropriate risk limits and provide adequate oversight of such activities.	The board may not adequately identify, measure, monitor and control risks unique to the institution, which may result in surcharges, losses and contingent liabilities to the bank.
The institution's information and reporting systems provide adequate risk-monitoring information to management and the board or its designated committee.	Insufficient or untimely information prevents individuals from performing their duties effectively.
The board has established policies and procedures that ensure compliance with governing instruments, laws, regulations and sound fiduciary practices.	Management may breach its fiduciary duties or violate laws and regulations. The institution may be exposed to increased reputation risk and potential losses.
Management possesses knowledge, experience and expertise commensurate with the institution's fiduciary activities.	Inadequate knowledge of fiduciary principles may increase the institution's risk exposure.
The Board retains competent legal counsel as needed.	Failure to recognize and address potential legal issues could increase risk exposure.
The board provides for adequate insurance coverage of fiduciary activities.	Inadequate insurance coverage may increase the institution's exposure to losses.
The board provides a formal process for approving new accounts, products and services.	Management may introduce new products and services that exceed the board's risk tolerance limits. Existing infrastructure may be insufficient to support new products or services to manage associated risks. Management may accept accounts that do not provide a return commensurate with risk. Management may accept accounts with inherent conflicts of interest. Management may lack the expertise to administer accounts.
The institution effectively manages relationships with third parties.	The institution may be held accountable for actions of third parties.
The board provides a formal process for approving closed accounts.	Risk exposure to the institution may continue although the account is closed.
Strategic planning processes are adequate.	Management may be unresponsive to changes in economic, industry and regulatory environments.
PERFORMANCE	
The trust department's current and future earnings are sufficient to support fiduciary activities.	Trust department operating losses may adversely affect the institution's overall earnings performance.
Bank earnings are not materially impacted by excessive or improperly managed fiduciary risk.	Poorly managed fiduciary risks may result in surcharges or contingent liabilities and place bank earnings in jeopardy.
Fiduciary earnings are appropriate for the	The bank is not adequately compensated for

Standards	Associated Risks
department's risk profile.	fiduciary activities.
The institution maintains appropriate account acceptance procedures.	The institution may assume excess risk without sufficient rewards.
Account closing procedures ensure that fiduciary duties are fulfilled and finalized.	Lack of action or unresolved issues increases the institution's risk exposure.
Account reviews are conducted annually to identify administrative weaknesses.	Failure to identify administrative weaknesses increases risk exposure and potential liability.
Conflicts of interest are identified and controlled.	Conflicts of interest increase risk exposure.
Fiduciary actions are fully documented.	The institution may be unable to defend its actions against allegations for breach of fiduciary duty.
At least once a year, an independent party or committee performs an investment review of each discretionary and investment advisory account.	Inadequate or infrequent investment reviews may cause a breach of fiduciary duty and potential financial loss.
The trust department complies with regulatory securities record keeping requirements.	Noncompliance with securities record keeping requirements result in violations of law and possible civil money penalties.
The administration of miscellaneous assets is satisfactory.	Unsatisfactory administration of miscellaneous assets may result in violations of law and increase fiduciary risk.
Cash management practices are adequate.	Inadequate cash management practices can cause poor investment returns and unnecessary overdrafts.

Trust

Core Analysis Decision Factors

Examiners should evaluate Core Analysis in this section for significance and to determine if an Expanded Analysis is necessary. Negative responses to Core Analysis Decision Factors may not require proceeding to the Expanded Analysis. Conversely, positive responses to Core Analysis Decision factors do not preclude examiners from proceeding to the Expanded Analysis if deemed appropriate.

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

Core Answer: General Comment:(If any)

<u>Core Analysis Decision Factors</u>

C.1. Are policies, procedures and other methods for limiting risk adequate?

C.2. Are internal controls adequate?

C.3. Are the audit or independent review functions adequate?

C.4. Are information and communication systems adequate and accurate?

C.5. Are trust department earnings adequately managed and sufficient to support the institution's fiduciary activities?

C.6. Does the institution comply with internal policies and procedures, governing instruments, applicable laws and regulations, and sound fiduciary principles?

C.7. Are asset management and investment advisory practices adequate?

C.8. Do the board and senior management effectively supervise fiduciary activities?

Trust

Expanded Analysis Decision Factors

This section evaluates the significance and materiality of deficiencies or other specific concerns identified in the Core and Expanded Analyses.

Do Expanded Analysis and Decision Factors indicate that risks are adequately managed?

Expanded Answer: General Comment:(If any)

Expanded Analysis Decision Factors

E.1. Are deficiencies immaterial to the supervision of the trust department?

E.2. Are deficiencies immaterial to the bank's condition?

Trust

Consider the following procedures at each examination. Examiners are encouraged to exclude items deemed unnecessary. This procedural analysis does not represent every possible action to be taken during an examination. The references are not intended to be all-inclusive and additional guidance may exist. Many of these procedures will address more than one of the Standards and Associated Risks. For the examination process to be successful, examiners must maintain open communication with bank management and discuss relevant concerns as they arise.

PRELIMINARY REVIEW

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

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 for trust activities to determine the bank's risk profile. Consider the following:

4 A Annual Report of Trust Assets (FFIEC 001).

4 B Other regulatory reports, examinations, investigations and correspondence from state banking authorities, Securities and Exchange Commission, National Association of Securities Dealers, or Department of Labor.

4 C Public information such as stockholders reports, the bank's Internet site, press releases, and published news stories.

4 D Current trust department Statement of Assets and Liabilities or trust department Statement of Condition.

4 E Responses to the First Day Letter and the Officer's Questionnaire.

4 F Customer complaints, including complaints received by the FDIC Division of Compliance and Consumer Affairs or the FRB Division of Consumer and Community Affairs, or State regulatory agencies.

4 G Pending or threatened litigation.

5 Determine if 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 bank's risk profile:

6 A Securities lending.

6 B Fiduciary services delivered via electronic banking channels.

6 C Employee benefit participant record keeping.

6 D Fee sharing arrangements, including receipt of 12b-1 or sub-accounting fees from mutual funds.

6 E Services provided to or received from third parties.

6 F Sweep arrangements/cash management.

6 G Soft dollar arrangements.

6 H Global custody.

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

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

8 A Organizational structure.

8 B Operations, including automated systems used by the department, both in-house and EDP servicers.

8 C Marketing strategies.

8 D New products and services.

8 E Investment Strategies.

9 Review the following information regarding management and supervision of the trust department:

9 A Minutes of meetings of the board of directors, trust related committees and subcommittees.

9 B Organizational charts.

9 C Committee composition and structure.

9 D Management information reports, such as:

9 D1 Net overdrafts and other account liabilities.

9 D2 Large cash balance reports.

9 D3 Past-due loans, including participant loans in employee benefit accounts.

9 D4 Delinquent fee reports.

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

10 A General account selection criteria:

10 A1 Pending or threatened litigation.

10 A2 Customer complaints.

10 A3 Previous examination criticisms.

10 A4 New and closed accounts.

10 A5 Successor appointments.

10 A6 Co-fiduciary relationships.

10 A7 Internal watch lists.

10 A8 Assets not carried on the department's books.

10 A9 Accounts with liabilities.

10 A10 Accounts lacking diversification.

10 A11 Administratively complex assets held in discretionary and investment advisory accounts.

10 B Actual or potential conflicts of interest, such as:

10 B1 Discretionary investments in own institution or parent securities and deposits.

10 B2 Discretionary investments in securities and other obligations of insiders.

10 B3 Discretionary investments in proprietary products, including mutual funds, insurance and annuities.

10 B4 Inter-trust transactions.

10 B5 Account where insiders serve as co-fiduciary.

10 C Employee benefit accounts with plans that:

10 C1 Cover the institution's employees.

10 C2 Are sponsored by directors or their related interests.

10 C3 Hold participant loans.

10 C4 Are under investigation by the Department of Labor.

10 D Corporate accounts with issues that are:

10 D1 In default.

10 D2 Subject to the Trust Indenture Act.

10 E Estates that have been open for an extended time.

11 Prepare examination scope memorandum.

POLICIES, PROCEDURES AND OTHER RISK LIMITING METHODS

12 Determine if policies, procedures and other methods for limiting risk are adequate in relation to the institution's risk profile. Guidelines may address the following:

12 A Asset management, including investment reviews.

12 B Account liabilities, including overdrafts.

12 C Account administration, including account reviews.

12 D Conflicts of interest and self-dealing.

12 E Operations and controls.

12 F Securities trading.

12 G New business development.

12 H Selection and retention of legal counsel.

12 I Approval of policy exceptions.

12 J Ethical standards for trust department personnel.

13 Determine if the institution has established policies and procedures adequately addressing the trust department's involvement in the following. Guidelines may be contained in the institution's general policy framework as well as trust department specific policies.

13 A Privacy issues.

13 B Electronic banking.

13 C Electronic funds transfer.

INTERNAL CONTROLS

Control Environment

14 Evaluate the department's internal control environment. Consider the extent to which management and the board have provided for the following:

14 A Adequate staffing to provide for efficient and timely processing and appropriate separation of duties.

14 B Compensating controls where limited staff precludes separation of duties.

14 C Clearly defined responsibilities, duties and lines of authority.

14 D Proper reporting and prompt correction of internal control deficiencies.

14 E Procedure manuals that are comprehensive, clear and promptly revised to reflect change as needed.

Protecting and Controlling Assets

15 Assess the effectiveness of the department's internal control practices in protecting and controlling trust assets. Controls may include the following:

15 A Trust assets should be separated from the assets owned by the institution.

15 B Controls over the receipt and release of assets should include the following:

15 B1 More than one institution employee must be present when assets are received.

15 B2 Account holders or beneficiaries should sign written confirmations for all items distributed to them.

15 C Assets held in the vault are under dual control and subject to periodic verification.

15 D Control procedures for worthless assets should include the following:

15 D1 The value of worthless assets should be appropriately researched, documented, and periodically reviewed.

15 D2 Worthless assets should be maintained on the departments books at nominal value.

15 E Hold and return mail procedures provide proper controls.

15 F Controls over the disbursement of trust funds should address the following:

15 F1 Controls over unissued checks, including the use of sequential or prenumbered documents.

15 F2 Signature controls.

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

Recordkeeping

17 Determine that internal controls provide for accurate and reliable record keeping and regulatory reporting. Consider the extent to which the department's record keeping systems:

17 A Maintain records in sufficient detail to properly reflect all trust department activities.

17 B Report the assets of each trust account separately from the assets of every other account.

17 C Account separately for principal and income in accordance with state principal and income acts.

17 D Facilitate the timely and accurate processing of all trust department transactions. Consider the following:

17 D1 Securities income and maturity automated systems.

17 D2 Securities pricing and rating services.

17 D3 Mutual fund and cash sweep transactions, including allocation of income and service fees.

17 D4 Corporate actions that affect security holdings.

17 E Provide for accurate filing of the Annual Report of Trust Assets (Form 001).

Reconciliations

18 Determine that adequate reconciliation procedures are in place, including securities depositories, brokerage accounts, internal accounts, mutual funds and cash management services.

Information Systems

19 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.

Other Internal Control Matters

20 Assess the effectiveness of the department's internal controls in ensuring compliance with applicable laws and regulations.

21 Determine that appropriate controls exist over securities transactions, including timely execution and proper segregation between account administration and securities settlement.

22 Determine that proper procedures are in place to process securities proxies, corporate actions and other shareholder communications. (Shareholders Communications Act of 1985)

23 Review the extent to which the institution allows daylight overdrafts or "free riding" during the securities settlement process in custody accounts. If allowed, consider whether the institution:

23 A Sets guidelines and standards for acceptance of new custodial accounts, including customer background and credit information.

23 B Requires identification of broker-dealers that will be sending securities and accepting payments from custodial accounts.

23 C Establishes systems to monitor trading and to track accounts involving numerous broker-dealers.

23 D Determines that each account has sufficient funds to perform any trade, or :

23 D1 That temporary overdrafts incurred for the purchase of exchange-traded or margin stocks are secured by collateral margins required in FRB Regulation U.

23 D2 Form FR U-1 is obtained from customers where credit in excess of $100,000 is extended.

23 E Rejects customer trades where acceptance would result in a violation of FRB Regulation U.

23 F Prohibits temporary overdrafts which could aid a broker-dealer in violating FRB Regulations T or X.

23 G Establishes training programs for administrators and operations personnel involved in the securities settlement process.

24 Determine that 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.

25 Evaluate the institution's process for providing customer account statements and other information.

26 Determine that account administrators are not involved in the account statement generation and distribution process.

27 Determine that original trust documents are adequately protected and backed up.

AUDIT OR INDEPENDENT REVIEW

28 Determine that the board provides for an annual or continuous audit of fiduciary activities.

29 Determine that the scope of audit coverage is commensurate with the level of risk associated with fiduciary activities. Determine if audit activities adequately evaluate the following risk areas:

29 A Accuracy and validity of transactions.

29 B Fee calculations, collections or waivers.

29 C Compliance with governing instruments, internal policies and statutory and regulatory requirements, including securities regulations.

29 D Internal routines and controls.

29 E Account administration, including documentation of the following:

29 E1 Trust agreement and court orders.

29 E2 Income receipts and distributions.

29 E3 Principal invasions, including appropriate approvals.

29 E4 Receipt of assets.

29 E5 Co-fiduciary, grantor, beneficiary or third-party approvals.

29 E6 Unique assets.

29 E7 Annual administrative and investment reviews.

29 F Management information systems.

29 G Verification of assets.

29 H Assessment of management's corrective actions.

30 Determine if audit reporting procedures are adequate. Consider the following:

30 A Formal reports are provided to the board of directors or appropriate committee.

30 B Audit reports include a summary of the effectiveness of internal controls in the trust department.

30 C Audit findings, including actions taken as a result of the audit, are recorded in the board or appropriate committee minutes.

30 D Audit program deviations are reported and approved.

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

32 Evaluate auditor independence. Consider the following:

32 A Whether the in-house audit function is free from undue influence from senior management.

32 B Whether external audit providers perform other services for the institution that could adversely affect the independence of audit findings.

33 Evaluate auditor experience and expertise.

INFORMATION AND COMMUNICATION SYSTEMS

34 Determine if written reports and communication processes provide sufficient information to enable the board, senior management and staff to make appropriate risk management decisions. Consider the following:

34 A Review the information provided to the board, the trust committee and to trust related subcommittees to determine the quality, accuracy, timeliness and completeness of trust information.

34 B Determine that the board or its designated committee receives adequate information concerning all significant risk areas. Consider the following:

34 B1 New and closed accounts.

34 B2 New products, business opportunities and marketing.

34 B3 Emerging risks, including electronic banking.

34 B4 Accounts presenting administrative difficulties.

34 B5 Accounts involving complaints or threatened or pending litigation.

34 B6 Conflicts of interest.

34 B7 Investment strategies and performance, including common and collective investment funds and proprietary investment products.

34 B8 Exposures to counterparties.

34 B9 Activities experiencing sustained or significant losses.

34 B10 Exceptions from established policies, procedures and risk limits.

34 B11 Audit and regulatory reports.

34 B12 Profitability.

34 B13 Corporate trust issues in default.

34 B14 Significant discretionary actions.

35 Evaluate the adequacy of the information used to monitor events and conditions in the external environment in which the department operates.

36 Determine if trust department personnel have timely, accurate and meaningful information to perform their responsibilities.

EARNINGS

37 Determine that management's methodology for measuring trust department profitability is reasonable and commensurate with the volume and nature of services.

38 Assess the adequacy of the board or designated committee review of trust profitability. Consider the scope and frequency of reviews, including analysis on lines of business or individual account activity.

39 Assess the department's historical and current earnings and future prospects.

39 A Evaluate the level and trend of earnings.

39 B Determine if revenues are sufficient to support overhead and provide a return commensurate with the risks assumed.

39 C Evaluate the materiality of surcharges or losses.

39 D Evaluate credit for deposits.

39 E Evaluate the impact of nonrecurring expenses or revenues.

39 F Consider the department's reliance on large fee-producing accounts.

39 G Discuss with management and evaluate any material future events that could impact earnings including threatened or pending litigation, new business opportunities and competition.

40 In those institutions where trust services are offered as a service to the community and where profit is not the primary motivation, determine that the board:

40 A Evaluates periodically that the continued offering of trust services provides an essential service to the institution's customers or to the local community.

40 B Establishes guidelines with respect to the amount of recurring losses that are acceptable if trust services cannot be offered profitably.

41 Evaluate the adequacy of the budget process.

41 A Compare forecasted earnings to actual earnings performance.

41 B Assess the reasonableness of growth and profitability assumptions.

41 C Determine if forecasted earnings are sufficient to support fiduciary activities.

41 D Determine if the board of directors or designated trust committee approves, reviews, and revises the budget.

42 Review the department's marketing plan, if any. Determine if the plan:

42 A Establishes reasonable goals.

42 B Delineates strategies for goal attainment.

42 C Identifies products and target customer groups.

42 D Provides for periodic progress reports.

43 Evaluate any internal or external reports, analyses, or recommendations pertaining to trust profitability, including those contained in audit or consultant reports.

COMPLIANCE

Account Administration

44 Determine if account administration is adequate by reviewing a sample of accounts.

45 Assess compliance with governing instruments. Consider the following:

45 A Account files contain all necessary governing documents.

45 B Account officers are familiar with the terms of governing instruments.

45 C The trust department's actions, including investments, co-fiduciary approvals, and discretionary distributions, are authorized under governing documents.

45 D The trust department is performing all fiduciary duties prescribed in the governing documents.

46 Determine whether account documentation adequately describes the department's administration of accounts.

47 Evaluate the trust department administrative review process.

47 A Determine that reviews are:

47 A1 Performed at least once during each calendar year, but more frequently when higher levels of risk warrant closer review.

47 A2 Performed by trust committee, subcommittee or disinterested account officer.

47 A3 Appropriately documented.

47 B Determine that deficiencies are monitored and corrected in a timely manner.

48 Determine whether customer complaints are appropriately addressed.

Opening and Closing Accounts

49 Determine that account acceptance practices adequately limit risk. Evaluate the following:

49 A Management considers:

49 A1 Real or potential conflicts of interest.

49 A2 The account's objectives and administrative complexities.

49 A3 The legal sufficiency of the governing instrument.

49 A4 Environmental risks associated with real property.

49 A5 Whether actions will require third-party approval.

49 A6 The expertise of trust department personnel.

49 B The institution takes steps to avoid potential liability of prior trustees by obtaining the following:

49 B1 Proof of the prior trustee's resignation or removal.

49 B2 Prior accountings.

49 B3 Indemnification from the prior trustee or account beneficiaries for acts of the prior trustee.

49 C All necessary governing instruments and other supporting documentation are received and appropriately reviewed prior to accepting the account.

49 D Account fees are commensurate with risk and administrative duties.

50 Determine that account closing procedures adequately limit risk. Consider whether:

50 A All necessary releases, receipts and discharges have been obtained.

50 B Final accountings and tax returns have been filed.

50 C Assets have been properly distributed in a timely manner.

50 D Fees and expense reimbursements have been received.

50 E Closed accounts are approved by the board of directors or its designated committee.

50 F Court release is obtained when applicable.

50 G The institution has retained copies of relevant documents.

Conflicts of Interest

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

51 A The use of material inside information, including information arising from commercial bank relationships.

51 B Use of own-bank products and services, including deposit accounts, loans, proprietary mutual funds and brokerage services.

51 C Receipt of fees from other sources, including fees from mutual funds and sweep fees.

51 D Relationships with brokers and other agents, including soft dollar arrangements.

51 E Investment in own-bank or affiliated securities and other transactions involving insiders or their interests.

51 F Proxy voting, including own-bank or affiliated securities.

51 G Investment in securities underwritten by the bank or affiliates.

51 H Inter-account and multi-account transactions.

52 Determine if management controls risks associated with conflicts of interest. Consider the following methods:

52 A Making full disclosure.

52 B Obtaining appropriate consents.

52 C Obtaining court approval.

52 D Resolving the conflict in favor of the account beneficiaries.

52 E Compliance with self-dealing restrictions in the Employee Retirement Income Security Act, Internal Revenue Code and state laws.

52 F Obtaining independent, reasoned legal opinions.

Laws and Regulations

53 Determine whether the institution complies with applicable federal and state statutes and regulations, including:

53 A Employee Retirement Income Security Act (ERISA) and related Department of Labor regulations.

53 B State fiduciary statutes, including, as applicable, the Prudent Investor Act or Prudent Man Rule.

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

ASSET MANAGEMENT

55 Determine that the board of directors, trust committee, or related subcommittee has approved general investment and administrative guidelines for all significant holdings in the department: (If the Personal Trust and Employee Benefit Modules is completed, document procedures in the reference module.)

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

57 Determine if the criteria for including or excluding securities from the approved list of investments is appropriate.

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

59 Review methods for developing investment strategies and determine that such strategies are consistently applied.

60 Determine if quantitative and qualitative measurement tools are used in the asset management process, and that the tools adequately evaluate and monitor financial risks.

61 Determine if sales commissions or fee arrangements, such as 12b-1 fees received from mutual funds, do not imprudently influence investment decisions. (Refer to Pooled Investment Vehicles Module.)

62 Determine that guidelines have been established for using asset allocation models as a basis for investment management. Consider the following:

62 A Which accounts will be invested according to models.

62 B How portfolios are monitored to remain within model guidelines.

62 C How investment objectives are determined and monitored.

63 Evaluate the prudence and suitability of investments in own-bank deposits, including documentation that own-bank deposit receive a competitive rate of interest.

64 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. (If the Pooled Investment Vehicles Module is completed, document procedures in the reference module)

65 Evaluate the use of derivatives and other complex securities. (Refer to Personal Trust Module, FDIC Capital Markets Handbook or FRB Trading and Capital Markets Activity Manual)

66 Determine if exceptions to investment guidelines are appropriately approved and monitored.

67 Review any securities lending activity. (Refer to Employee Benefit Reference Module)

68 Assess practices for establishing discretionary account objectives. Determine if the following are considered:

68 A General economic conditions.

68 B Tax consequences.

68 C Other resources of the grantor or beneficiaries.

68 D Expected total return.

68 E Liquidity and income needs of beneficiaries.

68 F Beneficiary requests.

68 G Purpose of the trust and limitations of the governing instrument.

68 H Preservation or appreciation of capital.

68 I Diversification.

68 J Risk tolerance.

69 Determine that all discretionary accounts receive a documented investment review at least once during each calendar year. At a minimum, reviews should:

69 A Be performed by an independent person or committee.

69 B Evaluate the continued appropriateness of the account objectives.

69 C Assess the suitability of the account's investments, including tax considerations, risk tolerance, and liquidity needs.

69 D Review any asset allocation imbalances or lack of diversification.

70 Determine that after an account is accepted, appropriate investment objectives are established and investments received in-kind are reviewed for suitability within a reasonable time.

71 Determine the appropriateness of the assets held in discretionary and investment advisory accounts. Consider the requirements of governing document, the account's stated objective, approved investment guidelines, and common, state, and federal law (e.g. prudent person/prudent investor act, ERISA, and Internal Revenue Code).

72 Determine the adequacy of the practices, including valuation methodologies, that the institution uses to administer unique assets. (If the Personal Trust or the Employee Benefit Reference Module is completed, document procedures in the reference module)

73 Determine the adequacy of cash management practices. Consider the following:

73 A Cash balances should be promptly invested.

73 B Net-overdraft procedures, which include approval authority and procedures to ensure overdrafts do not remain outstanding for more than a reasonable number of days.

73 C Fees imposed under cash swap arrangements should be reasonable, in compliance with state law, and properly disclosed to the customer.

73 D Cash investment vehicles should earn a competitive rate of interest.

73 E Management should maintain sufficient cash to meet liquidity needs of individual accounts.

73 F Cash management vehicles should incorporate a high degree of liquidity and ensure preservation of principal.

Trading and Brokerage

74 Determine whether securities transactions effected in a fiduciary capacity require the institution to register as a securities broker. (Refer to Section 3(a)(4)(B)(iii) of the Securities Exchange Act of 1934, and implementing regulations.) Consider the following requirements to qualify for the exemption from registration:

74 A The fiduciary is chiefly compensated on the basis of:

74 A1 An administrative or annual fee (payable on a monthly, quarterly, or other basis).

74 A2 A percentage of the assets under management.

74 A3 A flat or per order processing fee that does not exceed the cost incurred by the bank.

74 A4 Any combination of the above.

74 B The institution does not publicly solicit brokerage business, other than it effects transactions in conjunction with advertising its other trust activities.

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

76 Determine if 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.

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

78 Determine if trade order tickets include all necessary information to validate the transaction and whether the institution can reconstruct an account's trading history.

79 Determine if transactions are executed and recorded in a timely manner.

80 Determine if transaction discrepancies, such as failed trades, confirmation conflicts, securities not delivered or received, and pricing inconsistencies are properly investigated and resolved.

80 A Review trade investigation logs to determine the number and dollar size of outstanding disputes.

80 B Determine that customer complaints are resolved by someone other than the person who executed the trade.

81 Determine if the institution prohibits traders from effecting personal securities trades.

81 A If traders are allowed to effect personal securities trades, determine that management has established adequate controls to both discourage and identify front-running and other inappropriate trading practices.

82 Assess the separation of duties for confirming, reconciling, valuing, clearing, accounting for, receiving and disbursing assets related to trading and brokerage activities.

83 Determine if access to trading programs is properly controlled, and whether only authorized personnel can initiate trades.

84 Determine if broker statements are sent directly to accounting or operations personnel and not to trading personnel.

85 Determine if discrepancies on broker statements are directed to someone outside the trading function for resolution.

86 Determine whether trading activities are covered in the audit program and whether the scope of review is appropriate for the level of activity.

87 Review management's compliance with securities record keeping and confirmation requirements. (FDIC: Part 344 and FRB: Reg. H Part 208)

88 Determine if board of director minutes reflect adequate supervision of fiduciary activities.

89 Assess the board, trust committee, and management's ability to plan and respond to changing business conditions and that fiduciary activities are adequately considered in the institution's strategic planning process.

90 Determine if management takes adequate and timely corrective action to address recommendations by auditors and regulatory authorities.

91 Determine if the board retains legal counsel when necessary.

92 Determine that the board provides for adequate insurance coverage and periodically reviews blanket bond, errors and omissions, and other insurance covering fiduciary activities.

93 Determine that fiduciary lines of business are managed and staffed by persons with the requisite knowledge, experience and expertise. Consider the following:

93 A Background information for key management personnel.

93 B Training for management and staff.

94 Determine the adequacy of management's succession plan.

95 Evaluate management's due diligence process for selecting and monitoring outside service providers (e.g. investment managers, investment advisors, consultants, custodians, broker/dealers, etc). Consider the following:

95 A Whether 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 following:

95 A1 Financial strength of the servicing organization.

95 A2 Ability of the servicing organization to handle the volume and nature of trust accounts and assets to be serviced.

95 A3 Investment results of the servicing organization.

95 A4 Policies, procedures, and controls of the servicing organization.

95 A5 Audit coverage of the servicing organization.

95 A6 Fidelity insurance coverage of the servicing organization.

95 B Determine if written agreements clearly define the scope and terms of any third party relationships, including:

95 B1 Duties and responsibilities of each party.

95 B2 Compensation and any cost sharing.

95 B3 Ownership of files and records.

95 B4 Access to trust accounts or activities by auditors and regulators.

95 B5 Terms under which the agreement may be terminated.

95 B6 Liability of each party in the event of surcharges or losses.

95 B7 Requirements for bonding or fidelity insurance.

95 B8 Privacy.

95 C Determine if the Board or its designated committee periodically reviews and approves written agreements with third parties and monitors performance and compliance with written agreements.

Trust

Generally, procedures used in the Expanded Analysis should target concerns identified in the Core Analysis and Decision Factors. Expanded procedures associated with Core Analysis and Decision Factors of no concern need not be used. The flexible guidelines specified for the Core Analysis also apply here.

POLICIES AND PROCEDURES

1 Investigate why trust policy or procedure deficiencies identified in the Core Analysis exist. Discuss with management its response to examiner recommendations. Possible reasons for policy deficiencies may include the following:

1 A Management overlooked these issues.

1 B Management is unfamiliar with prudent trust guidelines and procedures.

1 C Management is unwilling to create or enhance policies and procedures.

2 If poor compliance with policies and procedures exists, determine the reasons. Consider the following:

2 A Poor internal communication of policy and procedures or subsequent revisions.

2 B Lack of awareness of policy existence.

2 C Disregard for established policies.

2 D Misunderstanding of policy and procedures.

INTERNAL CONTROLS

3 Determine if management commits to and supports proper controls and monitors to ensure policy and procedures are followed in the future. Determine whether proposed controls, if any, are reasonable.

4 Determine whether all potential losses resulting from internal control or operational deficiencies have been identified and appropriately recognized.

Protecting and Controlling Assets

5 Perform a full or partial verification of assets held in the vault.

6 Perform a full or partial verification of assets held by third party custodians.

7 Determine that securities held by brokers are properly titled in the name of the institution as fiduciary or its nominee name.

8 Determine that unissued trust checks are in sequential order and properly controlled.

9 Review a sample of issued trust checks for signature controls.

10 Review a sample of daylight overdrafts for evidence of customer free-riding activity.

11 Review a sample of worthless assets for appropriate documentation.

Control Environment

12 Trace a sample of transactions from origination through posting.

13 Observe the in-house securities trading process to ensure that appropriate controls are in place.

14 Verify the accuracy of the Annual Report of Trust Assets (Form 001).

15 Review proxy-voting records to determine if procedures are consistently applied.

Reconciliation

16 Reconcile subsidiary control and suspense accounts that are out of balance or have not been reconciled on a timely basis.

17 Reconcile bank, securities depository or brokerage accounts that are out of balance or have not been reconciled on a timely basis.

18 Research significant outstanding suspense items and evaluate the institution's follow-up procedures.

19 Review significant outstanding trust checks and evaluate the institution's follow-up procedures.

AUDIT OR INDEPENDENT REVIEW

20 Determine why examination deficiencies have not been identified through the institution's audit program.

21 Determine why management has failed to take action to address audit deficiencies.

22 Contact the external auditor and determine if external audit work papers should be reviewed.

23 Determine whether lack of information, inaccurate information, or faulty communication processes compromise risk management activities or the effective implementation of strategic initiatives.

EARNINGS

24 Evaluate the effect of operating losses on the bank's earnings, capital, and liquidity.

25 Evaluate the viability of any plans to improve earnings.

26 Estimate the department's earnings if trust income and expenses are not adequately measured.

27 Evaluate methods for allocating indirect income and expenses or management's reasons for electing not to allocate such items.

28 Evaluate the effect of fee schedules and any discounts, fee waivers or uncollected fees on earnings.

29 Evaluate the reasonableness of salaries and other operating expenses.

COMPLIANCE

30 Assign and evaluate the materiality of any contingent liabilities, potential losses or estimated losses identified during the examination.

31 Expand the sample of accounts reviewed or transaction testing to evaluate the extent and severity of identified deficiencies or areas where additional analysis is necessary.

32 Determine the extent and severity of actual and potential conflicts of interest and self dealing.

33 Determine whether self-dealing issues in employee benefit plans and charitable foundations are subject to excise taxes under the Internal Revenue Code.

34 Sample written directives for holding own bank or parent holding company stock.

35 Obtain information regarding officers and directors and their outside interests and compare against a list of fiduciary assets.

36 Review soft dollar contracts and documentation to determine compliance with the safe harbor provisions of Securities and Exchange Commission Section 28(e).

37 Review reports of personal securities transactions (FDIC: Part 344; FRB: 12CFR 208.34) for noncompliance with the institution's ethics policies or other insider abuse.

ASSET MANAGEMENT

38 Assess the reasonableness of assumptions used in securities evaluation models.

39 Determine if management uses consistent and reasonable methods for reporting investment performance.

40 Review trading account records for churning or excessive trading.

BOARD AND SENIOR MANAGEMENT OVERSIGHT

41 Review incentive-based compensation programs to determine that they do not promote the assumption of excessive risk.

Trust

Impact Analysis reviews the impact that deficiencies identified in the Core and Expanded Analysis and Decision Factors have on the bank's overall condition. Impact Analysis also directs the examiner to consider possible supervisory options.

1 Determine if management has the ability and willingness to correct deficiencies.

2 Assess the impact of contingent liabilities, potential losses and estimated losses on the institution's capital and earnings.

3 Determine the effect that reputation, operational, strategic, compliance, legal, financial and other risk exposures have on the institution's safety and soundness.

4 Determine whether any significant violations of the Employee Retirement Income Security Act should be referred to the Department of Labor. The interagency referral agreement states that the following violations will be considered significant:

4 A Violations of Section 404 involving $100,000 or more;

4 B Violations of Sections 406 or Section 407 involving prohibited transactions, except where the harm to the beneficiaries is minimal [NOTE: Generally a $100,000 threshold is used];

4 C Violations of Section 411, relating to prohibition against certain persons holding certain positions;

4 D Violations of Section 412, relating to bonding requirements for the institution itself.

5 Consider whether informal or formal enforcement action regarding fiduciary activities is warranted, such as a board resolution, a Memorandum of Understanding, a Cease and Desist Order, or a removal action. Advise the appropriate supervisory officials.

6 Consider recommendations for Civil Money Penalties and prepare formal recommendations, as appropriate. (Refer to the guidance in the Management and Internal Control Evaluation module.)

7 Notify the appropriate bank regulatory officials of suspected activities and actions taken relating to Suspicious Activity Reports. (Refer to the guidance in the Management and Internal Control Evaluation module.)