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FIRMA is pleased to offer the dates and locations for our upcoming Programs.
Please visit our website - www.thefirma.org - for the detailed information about each event.
We hope you can attend one of these outstanding programs!

22nd Annual National Risk Management Training Conference

Orlando, FL
April 6 - 10, 2008

2008 Training Seminars

Atlanta, GA March 4 & 5	San Francisco, CA October 1 & 2	New York, NY December 11 & 12
Anchorage, AK September 11 & 12	Cleveland, OH October 9	
Chicago, IL September 24	Charlotte, NC October 22 & 23	

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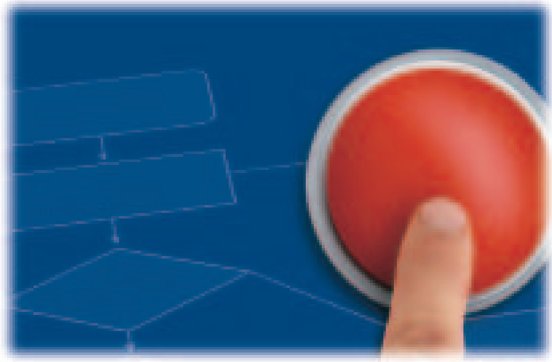

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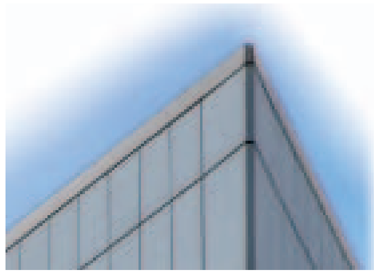
Regulatory Update Quiz Pullout Center Section



THE MISSION OF FIRMA

Through our commitment to educational excellence, we will be the premier fiduciary and investment risk management association in the financial services industry, providing essential continuing education, world class best practices, and opportunities for establishing professional industry contacts.

COVER STORY

Fiduciary Risk

Perhaps it was during your last regulatory exam that it became apparent your institution could do more in the area of Fiduciary Risk Management. Or maybe it was two exams ago and the regulators are getting more insistent. Was it that preventable large write-off that got your management team or auditors using words like "proactive", "weak control environment", "new compliance officer", and "integrated risk management?" Whatever the reason you need more or better risk management, you likely sit with little free time on your hands with the task of creating a fiduciary risk management program that hits on all the regulatory buzz words like: risk identification, control, monitoring, assessment, transparency, prioritizing risks, reputation risk, financial risk, strategic risk[1], role definition, enterprise-wide…

Fiduciary risk is the risk of loss arising from the failure to discharge a higher level of duty when acting for the benefit of another party as to matters that come within the scope of the relationship between them.

Management

By Don Moore, Satish Pattegar, John Clark

In general, there are three broad categories of risks an institution may face:

1) Risks the institution is aware of and working on resolving: (low concern)
2) Risks the institution is aware of and not working on yet: (medium concern)
3) Risk the institution is not aware of and may find out via complaints, litigation, examiner findings and/or news media attention: (high concern)

Obviously you can never eliminate risk within an institution. As attractive as a "zero tolerance" environment might be, in reality the business side of the institution has the challenging job of balancing the attraction of new business and serving existing clients with all of their creative and often out-of-the-box needs with controlling risk to a level that is tolerable both to senior management and the shareholders. For management, having an idea of what the risk dashboard reads can help it make proactive decisions as the institution travels down the freeways of the financial service delivery industry. By looking at existing risk levels versus the cost of resolution, many will find ways to minimize and manage risks not previously considered. Basically, an effective risk management program needs to incorporate the strategy and direction established by the Board of Directors, including the revenue projections and desires, and balance these rewards against the challenges presented by the various risks within the industry, some of which are unknown.

The benefits of having a sound risk management program are many, a few of these benefits include:

- Reduction in Total Fiduciary Risk
- Increased Awareness and Improved Reporting
- Risk Mitigation Savings
- Operating Savings
- Lower Costs of Capital
- Improved Controls
- Increased Shareholder Value

[1] *OTS Trust and Asset Management Handbook*, July 2001, pp. 110.1 – 110.4

But, other than pressure from your regulators, how do you convince management of the need for a strong or improved risk management program at your institution? In reality, as an industry, total fiduciary losses (reported on regulatory fiduciary call reports) as a percentage of revenue are low. In fact, such losses have represented less than 1% of total fiduciary income for the past eight years. The term "losses" includes settlements, surcharges, and other losses arising from errors, or malfeasance attributable to fiduciary errors. In many banks losses may be easily absorbed by strong holding companies or covered by affiliates. Attachment 1 provides some interesting data on how the level of losses within the trust industry have been reported over the years. Since money talks to most management teams and the losses aren't doing the talking for us, what else will do the convincing? The best tact is to start making a list of what is keeping you and your legal, audit, compliance or line business partners up at night. Then interview a few front-line employees working in operations or administration and get candid feedback on how risky the processes really are. The mid-level managers could be informative. Senior management often relies on that group when it comes to compliance or regulatory requirements such as monitoring employee brokerage transactions, making sure court accountings get done in time, keeping employees on schedule performing investment or administrative account reviews, tracking outside activities of employees such as offices or directorships held, checking for account debits and overdrafts, following up on client complaints, and on and on.

Okay, so it is most evident that a well developed risk management program will be a hit with regulators. It will unearth hidden risks that most institutions do not even know they have, right? A strong risk management program will also give your institution a competitive advantage and, believe it or not, it will free up your managers to do more things like meet with clients, generate more revenue, recruit and manage stronger teams, and have time to creatively seek out new and better ways to serve the client, who should win the biggest of all.

You must remember, once you commit to having an effective fiduciary risk management program, you are never done. You can always improve your risk management program and the need to improve will be expected by your regulators, your clients, and your management team. The bar is always getting raised but do not get discouraged. This article is intended to spark discussion and help you either start building a risk management program or improve upon the process that you already have in place after agreeing on the risk tolerance level acceptable to your regulator and management. As you well know, there is no "one-size fits all" solution for the perfect risk management program.

Risk Management Responsibilities and Role Definition

Apart from the judgment of front-line employees performing daily functions as the first line of defense against significant risk issues, the risk management oversight team is the primary "keeper of the watch" over risk issues. How the risk management oversight team is structured will play an important role in the effectiveness of the overall program. Obviously, the structure of the risk management oversight team must be efficient for the institution and be embraced by the management team. Otherwise, there will be a tendency to bring risk issues through business channels around risk management for the sake of expediency.

At a high level, the risk management oversight team, led by the Chief Risk Officer, might consist of the senior manager of the trust/fiduciary division (Strategic Risk), the chief fiduciary officer (Reputation Risk – Administration), the chief investment officer (Reputation Risk – Investments), the chief financial officer (Financial Risk), the chief operations officer (Transaction/Operational Risk), the chief compliance officer (Compliance Risk), the chief legal officer (Legal Risk), and the chief technology officer (Technology Risk). Once role clarity and accountability have been clearly assigned and expectations of each risk owner have been established, the coordination of these groups becomes important. There can be much overlap over these risk areas.

Role definition among groups with similar roles becomes of paramount importance. For example, the corporate culture of your institution may not find it acceptable for the institution's senior risk manager to morph into other areas such as audit, compliance or legal. Likewise, it may not be appropriate for the compliance department to begin making business risk related decisions such as: dollar limits for transaction approvals, or the appropriateness of accepting a particular type of business or client for reasons other than regulatory limitations. Many institutions have developed coordination committees involving legal, audit, risk management and compliance. The goal is to eliminate the duplication of efforts when fiduciary issues, new products, or new processes are evaluated. Even more important is the need to eliminate gaps in coverage of the business because it is misunderstood that another group is covering a particular topic. An example might be where a significant regulatory finding arises because the compliance department assumed the audit department tested for the regulatory requirement during audits, the audit department assumed compliance had it covered, and the risk management and legal groups understood it to be the responsibility of compliance.

Attachment 2 is a sample list of role definitions for your consideration. It demonstrates an approach to responsibility for functions such as interpreting new and existing regulations (legal); ensuring regulatory changes are properly communicated and knitted into the fabric of business and operational processes (compliance); testing the institution's control environment and risk management effectiveness and reporting independently to senior management (audit); and identifying, assessing, taking, and mitigating business and operational risks (risk management).

Risk Management Infrastructure

Although there is no "plug and play" risk management department organization chart or hierarchy, there are many elements of a strong risk management program that should be considered. Using the risk management tools discussed herein, there are many ways those tools can be brought to bear to address the needs of sophisticated financial service providers. This section discusses organization and staffing alternatives that have been employed at various large institutions to give some understanding to the reader of the practical application of risk management theories and minimum requirements.

Committee Structures *(use of Trust vs. Fiduciary)*

A) Multi-Disciplinary Trust Risk Management Oversight Committee Structure.

With this arrangement, the trust department (or trust company) manages risks within a committee structure with representation from all key risk management disciplines of the trust organization. Through the trust department's Trust Committee, a higher level ***Trust Committee Risk Management Subcommittee*** is set up with support from a management level ***Managers Trust Risk Management Committee.*** A further discussion of these committees follows.

Trust Committee Risk Management Subcommittee

The ***Trust Committee Risk Management Subcommittee*** has overall responsibility for **oversight** of the institution's risk management program. The membership of this committee consists of Trust Committee members, the majority of whom are not employees or officers of the institution. Representatives from the institution's Trust Compliance Team, Internal Audit Group, and Senior Trust Risk Management officials also attend meetings of this committee to present issues and/or concerns. This committee reviews the minutes of the ***Managers Trust Risk Management Committee*** (described hereinafter). The minutes of the ***Trust Committee Risk Subcommittee*** are ratified by the Trust Committee.

Managers Trust Risk Management Committee (MTRM)

Because no single individual is capable of identifying, monitoring, and controlling risks in all key risk categories, a ***Managers Trust Risk Management Committee*** composed of individuals possessing insight or expertise in each area is necessary to advise Senior Management on the overall day-to-day risk posture of the institution. The **MTRM** is composed of management representatives with specific expertise in one or more of the key risk disciplines, generally identified as follows:

- **Transaction (Operational) Risk –** Trust Services Risk Manager
- **Compliance/Regulatory Risk –** Trust Compliance Officer
- **Financial (Accounting) Risk –** Trust Finance Officer

Reputation Risk – Senior Trust Department Manager and Manager of Investments
Legal Risk – Senior Trust Attorney
Strategic Risk – Senior Trust Risk Management
New Business Risk – Sales Team Manager
Technology Risk – Senior Technology Officer

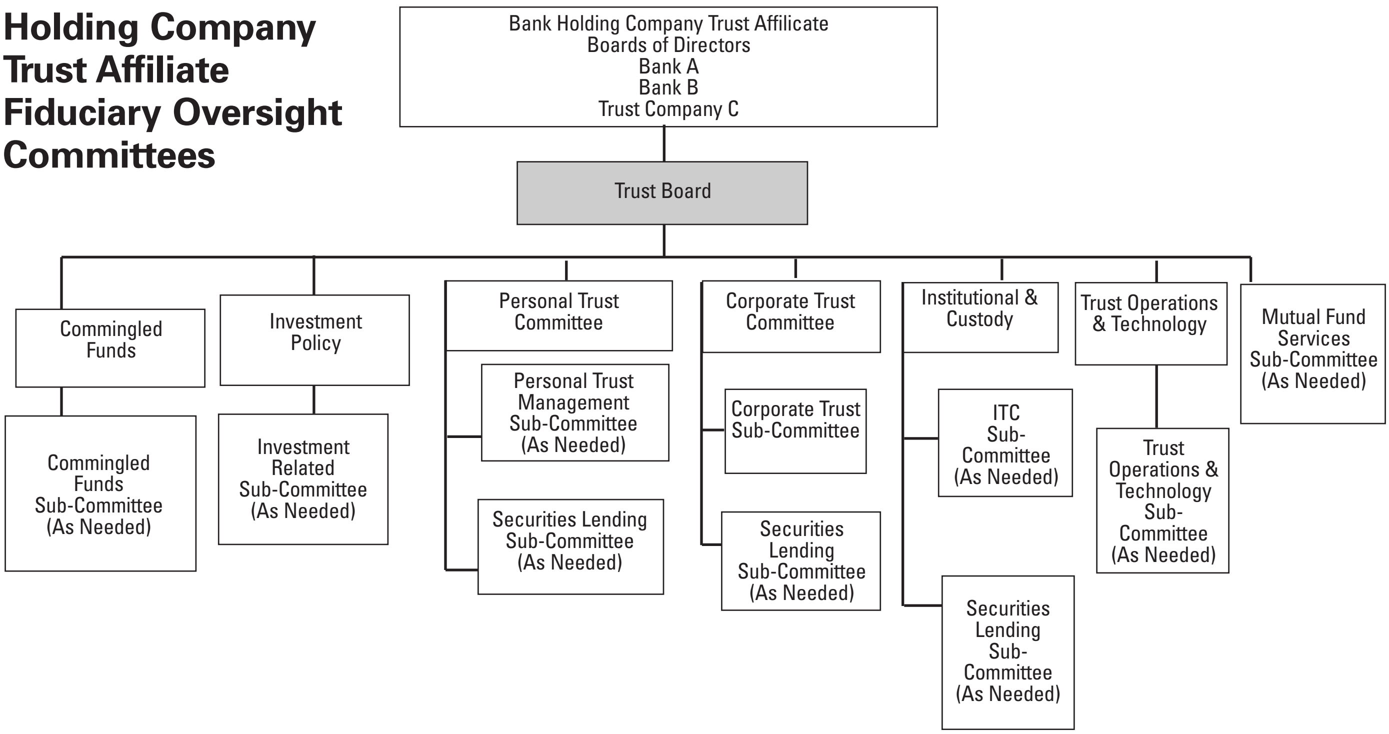
Each member may select an alternate member with the requisite expertise to represent their risk area. While other individuals may attend *MTRM* Committee meetings periodically as requested, the named committee members are the core of the committee and act as decision makers. While this committee structure brings representation from all departments within the trust institution, it could be argued that the risk management oversight of specific departments is not a strong as the *Holding Company Trust Affiliate Fiduciary Oversight Committees* structure discussed in the next section.

The following are some things to think about when designing a risk management structure similar to the aforementioned. One should consider the role of trust legal counsel and internal audit. If trust counsel is a member of a formal risk management committee of the institution, it may make that legal officer uncomfortable with being hands on and having their independent analysis documented. The internal auditors are not represented in the Alternative 1 framework. It is important to remember the importance of audit's independent role, which might be argued as being compromised if audit is a member of a formal risk management committee.

B) Holding Company Trust Affiliate Fiduciary Oversight Committees.

This fiduciary risk management committee structure embeds risk management committees in each departmental area of the trust institution on a functional basis, regardless of the legal entity where activity takes place. The structure mandates input from individuals on the front line of production and client interaction and demonstrates a transparent flow of information from such a level to senior management. It is understood that the eight key risk categories (Transaction [Operational], Compliance/Regulatory, Financial [Accounting], Reputation, Legal, Strategic, New Business, and Technology) are factored into discussions at each committee within the infrastructure, regardless of the level. Refer to the next page for a pictorial representation of the ***Holding Company Trust Affiliate Fiduciary Oversight Committee*** structure.

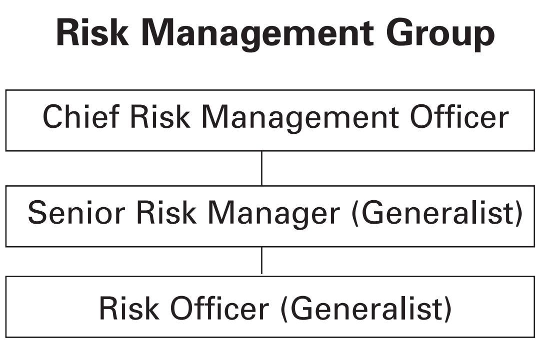
Holding Company Trust Affiliate Fiduciary Oversight Committees



Full Time Risk Management Department Organizations

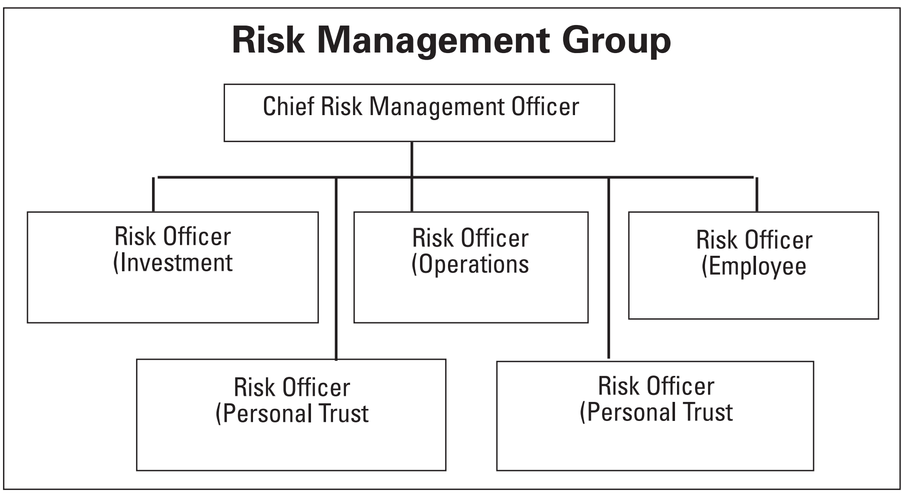
To oversee risk management within the trust institution, management may prefer a more centralized risk management organization. Perhaps financial resource limitations or the asset size of the trust institution prevent more departmental level risk managers as discussed in the next section. The advantages of a more centralized risk management team include the opportunity to better control interpretations of risk issues based on a higher level of organizational understanding, more consistent guidance and a better ability to leverage precedent, more opportunities for the risk managers to collaborate with short term notice on challenging risk issues, a more simplified process for managing and reporting up to senior trust management on hot topics and ongoing issues, and finally the ability to have more universal coverage and back each other up when needed. On the other side of the equation, more generalized central risk management teams are often spread too thin with expectations they can address detailed risk issues down to specific transactions and client circumstances. The team is limited in its ability to monitor risks within each department, and the group is heavily reliant on managers and others within each business unit to keep the risk management generalist team notified of risks going on day to day. The Department Level Risk Management Oversight Organization below provides an alternative risk management department strategy.

Centralized Risk Management Department Organization Chart



As a trust institution matures, a risk management team may require representatives physically located with business and department groups. This alternative gives the advantage of having risk managers closer to the transaction level when necessary; the risk managers are more available for advice and guidance to the appropriate manager; the risk manager benefits from being able to specialize and understand the complexities at a department level; the risk manager is able to give more attention to key risk indicators and control reports as they affect only their business group; having a risk manager on site also takes the burden off the department managers who are then free to manage teams, clients, and meet senior management expectations. The trade-off of this structure is the various risk managers may not as easily provide consistent guidance and advice when they are not able to collaborate on issues (silo effect); it is easy for each risk manager to become an advocate for his/her particular department when disagreements and inconsistencies arise between the various departments or criticisms arise from auditors and examiners; such an organization may present challenges when reporting up to senior trust management on issues and updates; and the senior trust risk manager may not be able to provide coaching and performance related feedback to each department risk manager because they do not work as closely together.

The discussion on possible risk management structures has been designed to provide stimulus for the development of what works best at your particular trust institu-



tion. If the structure is not practical for your circumstances, what is most important is the flexibility to step back and amend it in a way that minimizes risks, serves the business needs most efficiently, integrates the best with the other risk management departments within your institution, and maximizes the value addition of the overall risk management process.

Minimum Risk Management Program Standards

Regardless of what risk management infrastructure you choose, you must cover the bare minimum standards for an effective risk management program. These minimum standards can be found in the following regulatory examination manuals:

- Office of Comptroller's *Personal Fiduciary Services Handbook* dated August 2002; *Asset Management Handbook* dated December 2000; *Investment Management Services Handbook* dated August 2001; *Collective Investment Funds Handbook* dated October 2005; *Conflicts of Interest Handbook* dated June 2000; *Custody Service Handbook* dated January 2002.
- *FDIC Trust Examination Manual,* Section 1 – Management, Part E. Risk Management, on-line version as of September 2007.
- *Federal Reserve Commercial Bank Examination Manual,* Section 4200, dated November 2002. Also various Policy Letters addressing risk management items, (i.e. SR 95-51; SR 96-10; and SR 99-7).
- *Office of Thrift Supervision Trust and Asset Management Handbook*, Section 110, dated July 2001.
- Regulatory Issuances

Also, for your reference, Attachment 3 lists minimum standards that should be incorporated into a trust fiduciary risk management program.

Risk Identification

Account Review Process
The primary generator of fiduciary risk at a financial institution is the institution's acceptance of client relationships that by their governing document terms, court precedent or regulatory pronouncement, are subject to a higher standard than what is ordinarily commercially applicable. The account review and acceptance process is critical to the success of the overall risk identification and mitigation process. Basically, a tremendous amount of all risks can be mitigated by adherence to a strong account acceptance process.

New Product or Process Risk Assessments and Follow-Up Evaluation
Some institutions use a *Risk Management Committee Initial Approval Form* (see Attachment 4 for a sample) to assess the risks associated with new products and processes before they are taken into full production. In some cases, final approval is given by an appropriate committee in advance for each new product, system, strategic initiative, changed or out-sourced process. An individual representing the team developing the new initiative is usually responsible for presenting the Risk Management Committee Initial Approval Form to the appropriate committee and addressing questions and issues raised. The appropriate committee is responsible for validating assigned ratings for each of the Risk Categories and the overall risk rating. The appropriate committee then makes a decision to approve or disapprove the proposal, with conditions if necessary.

Once approved, after an appropriate amount of time, the assigned/responsible committee should re-evaluate the progress of the new product or process to determine if unanticipated risks and issues are being adequately addressed. At this time, it is also appropriate to determine if risks originally assigned at the initial approval need to be adjusted upward or downward based on actual performance of the new product or process in a live environment. To give the reader a starting point in the development of post-implementation evaluation criteria, a sample 180-Day Evaluation form is included in Attachment 5.

Basel Accord (BASEL II)

The new Basel Capital Accord ("the Accord") added Operational Risk to the previously established Credit and Market risks. The Accord has generated additional awareness and discussion of operational risk. This Accord establishes a framework for defining and establishing operational risk capital, management responsibilities for establishing an operational risk function, and corresponding bank supervisory review criteria process. While implementation of the Accord has been delayed, there is an expectation from regulators that the industry and each individual firm will continue to proactively address operational risk. It is important to design, implement, and manage an operational risk function that supports bank management and regulatory requirements.

Following are the operational risk categories to consider as you develop your operational risk compliance process:

- Internal Fraud (Theft and Fraud; Unauthorized Activity)
- External Fraud (Theft and Fraud; System Security)
- Employee Practices and Workplace Safety (Employee Relations; Safe Working Environment; Diversity and Discrimination)
- Clients, Products and Business Practices (Suitability, Disclosure and Fiduciary; Improper Business or Market Practice; Product Defects or Flaws; Selection, Sponsorship and Exposure; Advisory Activities)
- Damage to Physical Assets (Natural Disaster, Terrorism)
- Business Disruption and System Failures (Systems)
- Execution, Delivery and Process Management (Transaction Capture, Execution and maintenance; Customer Account Management; Customer Intake and Documentation; Monitoring and Reporting; Financial Counterparty Event; Vendor Event).

Vendor Oversight[2]

With a risk management infrastructure built to most efficiently meet the needs of the trust institution, it is logical that the vendor oversight program would feed into that body to ensure all elements of vendor oversight are captured. Trust regulators require an appropriate initial vetting of vendors selected to service the trust institution and an annual review of the vendor for ongoing appropriateness. Attachment 6 provides a sample of what a simple annual vendor assessment document might look like. One of the sample assessment documents would be prepared for each vendor utilized by the trust institution. When all vendors are assessed and compared side-by-side, the strengths and weaknesses, if any, of each vendor become apparent. Obviously the questions on the sample vendor assessment document are very high level, but supporting work papers should be retained to provide backup for each response provided.

Depending on the size of the financial institution, many of the oversight functions related to trust department vendors may be performed independently by specific departments within the financial institution. As an example, the information privacy department may conduct annual onsite visits of key vendors to ensure personal client data is well protected. There may be a treasury department charged with monitoring the financial strength and stability of correspondent banking institutions to provide an added layer of credit risk. A vendor procurement department may be responsible for monitoring vendor contracts for specific language required by regulations or internal corporate policy and getting those contracts updated when needed. A technology sourcing department may be in place to monitor the performance of technology related vendors. All of those functions performed independently of one another could be summarized for a trust risk management committee on a document similar to the vendor assessment form shown at Attachment 6.

Local Administrative Office
Annual Risk Assessment Process

In larger trust institutions with more than one trust branch or account administration office, it is often a best practice to develop a scoring process to determine risk across the spectrum of offices. Attachment 7 of this article provides a sample of what a *Local Administrative Office Risk Assessment* form might look like. Specific questions are examined for each local administrative office for overall comparative purposes. Issues such as write-off history, client complaints, administrator account loads and the complexity of accounts under administration, and previous audit or compliance exam results, to name a few, are considered. Once data is collected and individual office results are scored and double checked by an independent third party, it justifies the increased allocation of fiduciary risk and compliance resources to one or more particular offices. Often internal audit departments will use such a process to develop a risk-focused annual audit schedule. In some cases, trust department senior management may have a similar evaluation of the various administrative locations and teams to help in the allocation of training,

[2]Office of Thrift Supervision, Thrift Bulletin 82a, dated September 1, 2004. OCC Bulletin 2001-47, Third Party Relationships: Risk Management Principles, dated November 1, 2001.

procedural enhancement, and supervisory resources given the challenges of maintaining standard, consistent fiduciary practices across multiple geographical locations where administrative staff may have differing fiduciary experience and understanding of the institution's policies and home office practices.

Model Validation
The Office of the Comptroller of the Currency ("the OCC") issued Bulletin OCC 2000-16 on May 30, 2000, to help financial institutions mitigate potential risks arising from reliance on computer-based financial models. The Bulletin outlines key model validation principles and the OCC's expectations for a sound model validation process. Due to the increasing use of computer models in banking to estimate risk exposure, analyze business strategies and estimate fair values of financial instruments and acquisitions, it is critical that fiduciary management implement proactive risk mitigation techniques to reduce the likelihood of erroneous model construction, input, output, or incorrect interpretation of model results. The OCC recommends…"The best defense against such 'Model Risk' is the implementation of a sound model validation framework that includes a robust validation policy and appropriate independent review."

Risk Identification Reports
Reports such as litigation issues, write-offs, complaints and significant account issues offer a wealth of information on the most sensitive risk issues the institution is facing. Finding a way to track trends and make the data more understandable at a high level is often challenging, but could prove to be an excellent way to determine risk within the institution.

Systemic Risk Analysis Reviews
Performed by the compliance department, internal audit department or the risk management department, these systemic risk analysis reviews often focus on individual processes that may expose the institution to risk if not enhanced or remedied. The reviews are designed to capture specific issues that are identifiable and can be benchmarked against the eight categories of risk. The process is designed to facilitate management's ability to prioritize the allocation of resources to resolve or reduce risk issues. These reviews are prompted by requests from senior management, changes in the legal and regulatory environment, findings from regulatory examinations, and requests from the appropriate risk committee(s).

Risk Management Committee Member Reports on Key Risk Issues
Given that each member of the institution's risk management committee is generally responsible for providing expertise within a specific key risk category, those members can report on hot topics in their groups. Such topics might include: new industry or internal developments pertaining to their particular risk discipline, process or procedure weaknesses identified by their group, and other events that have an effect on the overall risk posture of the institution. As new developments are presented, the appropriate committee determines the best way to identify the inherent risks and, if necessary, develop the necessary monitoring and control mechanisms.

Control Self-Assessment Program
The best people to provide information about risks within specific processing teams or functional groups are the people actually performing the daily work. When an institution can develop a way to efficiently mine individuals for the risks related to the jobs they perform, everyone wins. Often groups are aware of re-work that must be performed when work flows in from one or more other groups that, when looked at from an overall process flow perspective, may shine light on a significant risk that everyone is trying to work around rather than address the root cause. Although ideas on how to develop and implement a control self-assessment program along with questionnaires that may be used to probe for risk issues are much too broad to discuss in this article (but has been discussed in presentations at FIRMA Conferences), its value as a risk identification tool is worthy of strong consideration in an effective risk management program.

Key Risk Indicators
The list that follows on the next page of key risk indicators is a sample list of what some institutions use to evaluate risk in the fiduciary business.

Assets Under Management and Administration:

- Trend Analysis, what is the direction of growth compared to that of the industry.
- Average Size of Accounts, what is the average size of the accounts being accepted and how does this compare to previous levels.
- Managed Assets compared to Administered Assets, what type of business is being accepted and what is the demand.

Number of Accounts:

- Trend Analysis, type of accounts for the entire organization, region, and administrator.
- Breakdown of the entire portfolio to determine high, medium, and low risk account statistics.
- Comparison to industry and peer group.

New Accounts Opened:

- Growth Analysis by type of account for the entire organization, region, and administrator.
- Type of incentive program, is it effective and managed.
- Review of the Account Acceptance Committee process.

New Asset Holdings:

- Comparison Analysis with the previous period, what asset holdings have increased in both market value and numbers, as well as those that have decreased.
- Establish growth limits for assets considered to be of high-risk. Special attention to be given to those that exceed the established growth limits.

Asset Mix:

- On-going reviews to determine the asset mix is appropriate for the business goals and strategies set by senior management.
- Trend Analysis, determine if various asset classes have shown an increase above and beyond stated parameters.
- Outline new assets classes that have been added.
- Industry and peer group comparison.

Trade Volume

- Trend of trade volume in various asset types compared with average levels in relation to staffing needs.
- Correlation of trade volumes to trade fails.

Trade Errors

- Credits versus debits
- Pre-Settlement versus post-settlement
- Allocation of post-settlement trading gains to clients
- Factor into BASEL II loss tracking data base
- Root cause analysis

Complaints Received and Complaint Settlements:

- Trend Analysis regarding complaints received.
- Review level of outstanding and unre solved complaints.
- Determine percent of repeat complaints.
- Review process for addressing complaints.

Regulatory Violations and Concerns:

- Review previous regulatory examination reports to ensure that all outstanding issues have been addressed.
- Review internal reports and pre-exami nation reviews to ensure that all areas of concern have been addressed and are in the process of being controlled.
- Look for trends in repeat violations or regulatory concerns.
- Network with other professionals to determine the current "hot topics" regarding regulatory findings.
- Communicate with your regulator on a frequent basis and inquire as to areas of concern.

Regulatory Fines and Sanctions:

- Determine what fines and sanctions have been accessed by regulatory agencies to the overall industry. This will assist in identifying areas of concern.
- Ascertain whether such concerns exist within your organization.
- Review the process for ensuring that all outstanding fines and sanctions against your organization are being properly addressed.

Revenues and Expenses

- Trend Analysis, review past history to determine if both the level of revenue and expense are appropriate. Review profit margins for various types of accounts to establish a benchmark.
- Reporting Requirements, does the Trust Committee and/or Board of Directors request reports to understand the percent of the portfolio that is meeting profit margin requirements, or the percent of accounts that are on the approved fee schedule.

Operating Losses:

- Review regulatory reporting requirements to ensure that such losses are being properly and accurately reported.
- Trend Analysis, comparison to previous time periods and that of the industry. Understand reasons for large changes.
- Determine process for recovering any losses and if the process has been instituted.

Profit Margins:

- Trend Analysis, organization-wide, and by region and administrator
- Compare to previous results and those of the industry and peer group.
- Establish parameters for high, medium, and low concern, profit margins that have increased significantly could be cause for concern.

Proprietary Product Sales:
Consider the following

- Governance process compliant with OCC Bulletin 2004-20
- Timely and proper performance of suitability analyses
- Proper fee disclosures and marketing materials
- Timely detection and correction of conflict situations
- Bias elimination in incentive compensation plans

Litigation (Threatened, Settlements, and Expenses):
Recognizing the sensitive nature and need for confidentiality, review potential, threatened, and settled litigation to manage recurring risk. Litigation expenses and settlements should be included in operational loss (BASEL II) tracking tool.

Own Company Stock/Securities:
Establish a review and oversight process of:
- Conflict situations
- Fees disclosures and consents
- Concentration
- Suitability to Hold
- Sufficiency of Consent
- Proper Diversification
- Justification for Ongoing Retention

Overdrafts and Un-invested Cash:
It is important to establish acceptable reporting and escalation thresholds and:
- Perform Root Cause analyses
- Documentation for monitoring and escalation activities
- Accurate inclusion in Reg D and FDIC reports
- Overdraft Expense Management
- Daylight Overdraft exposure and management
- Client impact of cash management
- Agreements and disclosures
- Separation of duties

Delinquent Fee Report/Fee Receivables:
Fee management is a key component of a fiduciary organization's profitability needs. Ensure:
- Effective Tracking and Monitoring
- Proper controls for correcting errors
- Tracking of age and trends
- Separation of duties
- Charge-off policies
- Accuracy of fee billings

Revenue Sharing:
- Identify sources
- Rate
- Adequacy of disclosures
- Conflict resolution
- Contracts
- Separation of duties
- Accurate accounting
- ERISA vs. Fiduciary Duties under Regulation 9

Training (or lack thereof):
Review Business Line reports and financials for:
- Spent dollars
- Training content

Reconcilements:
Review reconcilements for Cash and Securities, centralized and decentralized.
- Trend of aged items
- Root Cause
- Completeness
- Separation of duties
- Timeliness of Reconcilements
- Exception resolution process
- Review details (gross not net)

13g – Affiliation:
Review for impact of conflicts. Ensure proper monitoring and conflict resolution for affiliations with:
- Form 13 G reported entities
- 5% Open End mutual fund holdings
- Reg Y reportable financial holdings list
- Underwritten or syndicated entities

Wire Reports – High Risk Countries:
Should be included in the overall AML transaction review process.
- Accuracy of Primary and Secondary High Risk Country list
- Establish risk based approach
- Ensure accuracy of population
- Sufficiency of oversight and training
- Escalation process
- Regulatory agency reporting process

System Outage:
Ensure proper tracking of system availability and cost of down time.
- Ensure proper testing and monitoring of systems for continuity and resumption purposes
- Root cause analyses of system outage incidents
- Review Impact to Business Lines and Customers
- Establish Accountability
- Ensure proper language in vendor contracts
- Loss claim process
- Include in Basel operational loss tracking database

Back-Date and Reversal Reports:
- Separation of duties
- How controlled
- Why used
- Disclosure impact
- Propriety of client accounting
- Fraud management

Sweep Fees (ERISA governed vs. non-ERISA governed accounts):
Review for appropriateness by:
- Product line
- Agreements
- Discretionary vs. Non-Discretionary
- Disclosure and consent
- Proprietary and non-proprietary
- Affiliated and Unaffiliated products
- Error resolution process
- System coding and defaults

Unique Assets
(fiduciary vs. non-fiduciary account issues.)
Review by type:
- Oil and Gas
- Notes and Mortgages
- Farms and Ranches
- Real Estate
- Personal Property
- Timber
- Other Minerals
- Closely Held
- Limited Partnerships
- Insurance contracts
- Miscellaneous

Ensure the following:
- System capability for tracking
- Pricing for customer statement vs. RC-T reporting
- Reg 9 reviews
- Tax reporting
- Conflict management
- Agent supervision
- Risk management
- Insurance
- Fiduciary oversight
- Statutory requirements

Managed Accounts with No Portfolio Manager Assigned:
- Portfolio Manager never assigned due to process break down
- Portfolio Manager left institution but has not been replaced
- Account being terminated but Portfolio Manager was removed too early
- Client assets have been inappropriately un-invested
- Account is improperly coded as managed – correct coding
- Account split and a Portfolio Manager was not assigned to one of the resulting accounts

Managed Accounts with No Investment Objectives:
- Accounts split and no new investment objective was assigned to one or more of the resulting accounts
- New account is still in the process of documenting account objective based on account characteristics
- Client assets have been inappropriately invested or un-invested

Risk Control

Under the direction of the appropriate risk committee, the control environment for all critical functions should be periodically evaluated and updated as needed. An appropriate committee within the organization should require controls to be implemented by the appropriate level of management. Examples of such controls include manager sign-offs and approvals, multi-tiered approval levels (e.g., discretionary actions, monetary distributions, etc.), management or committee approval requirements, dual controls, indemnification from service providers, security access restrictions, system security access levels, information security restrictions, compliance approvals for certain exception issues, and control reports, among others.

Internal Policy & Procedures

Policies and Procedures are designed to control risk by *standardizing* processes for all accounts processed by the institution. Policies clearly document and communicate the institution's parameters for the levels of risk the corporate governance infrastructure is willing to assume related to a product, process or administrative function. Such parameters are obviously an essential element of any risk control environment. Therefore it is not only important to have well defined parameters, but also to communicate these parameters to all affected parties and to ensure that they are monitored and reported for non-compliance.

The institution must have a strong process to create new policies when new products and processes warrant new policies as well as maintain the relevance of on-going policies.

Document Control Process

Developing and overseeing the use of the most current forms and documents related to account opening, administration, and termination of the institution's accounts are vital elements in controlling risks at the institution. It can be challenging to publish forms to all employees in such a way that they are weaved into the fabric of the institution.

Examples of Key Oversight Committees

Depending on the institution's needs, a number of oversight committees may already be in place serving significant risk control functions.

Trust Committee – This committee *centralizes* key risk management decision-making regarding the life cycle of personal trust accounts (e.g. acceptance, administration, and closing)

Trust Investment Committee – This committee is designed to *standardize* investment policy for all discretionary accounts as well as provide *centralized* oversight of discretionary investments of personal trust accounts including the acceptance of non-traditional trust investments.

Employee Benefit Trust Committee - This committee *centralizes* key risk management decision-making regarding the life cycle of employee benefit accounts (e.g. acceptance, administration, and closing)

Discretionary Distributions Committee – This committee *standardizes* the exercise of discretion in fiduciary accounts.

Commingled Funds Committee – This committee oversees all 12 CFR 9.18 funds (not limited to a(1) and a(2) funds but including 9.18(c) funds, too) established and administered by the trust institution.

Other Committees – Committees established and approved as needed by the Trust Committee or their subcommittees.

Staffing and Employee Training

One of the most effective Risk Control tools at effectively run institutions is the employment of knowledgeable and experienced trust professionals. Such individuals provide the ***specialized*** skills necessary to make decisions to minimize risks associated with numerous transactions and circumstances that arise on a daily basis. The implementation of a strong recruitment and retention process for highly skilled trust professionals should be is a risk management priority.

To maintain the skill levels of officers and employees, the institutions should further minimize risk by *standardizing* procedures and processes through various employee-training initiatives. Such training is normally sponsored by the appropriate business unit management, trust compliance and/or legal.

This training can take many forms, including in person training, newsletters, online training systems, web-conferencing training, new policy or procedure announcements, industry sponsored seminars, or simple reminder emails at the appropriate times.

Training and employee awareness initiatives are considered an important risk control method designed to foster *standardized* processes and procedures.

Use of State Law Surveys
When an institution conducts business in many states, access to current and relevant state law requirements is of importance. The legal department of many institutions, working with outside counsel, will prepare and make available surveys of state laws on certain trust specific topics. They are a centralized reference source for all trust employees to assist them in the prudent administration of accounts. When there are questions about these surveys, the legal department serves as a reference resource.

Supervision of Investment Platforms Used in Trust Accounts
Many institutions that offer an array of investment options to their managed fiduciary accounts will set up a team responsible for the oversight of these investment programs. Such investment platforms might include traditional individually managed portfolios, managed mutual funds (affiliated or nonaffiliated), and affiliated or outside registered investment advisers, just to name a few.

Risk Monitoring

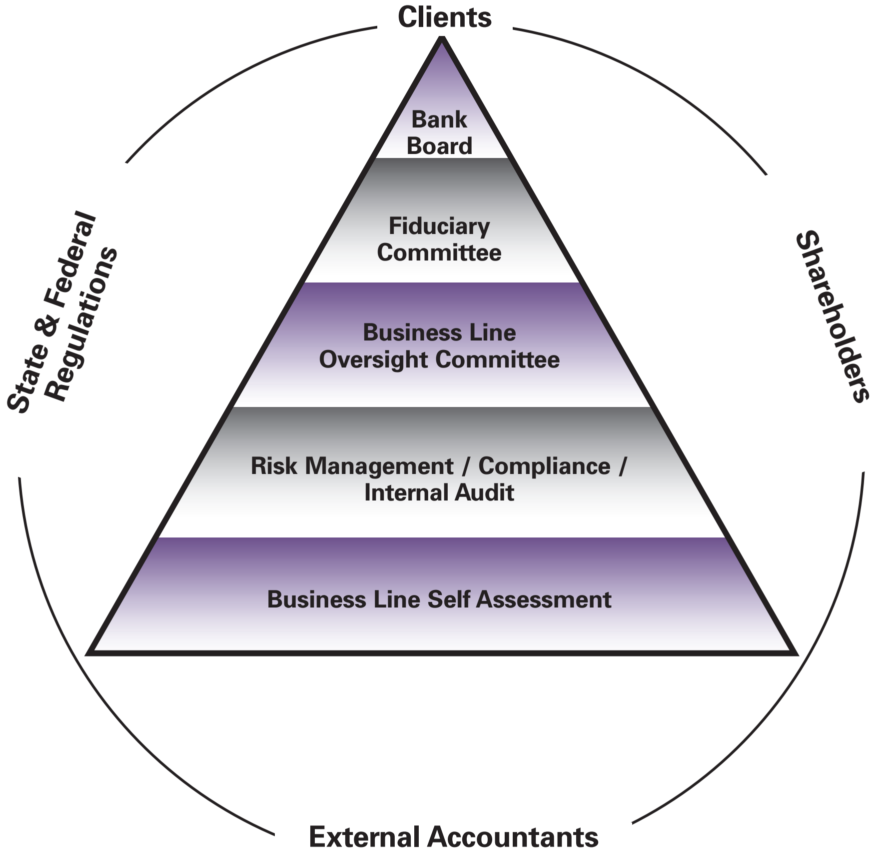
Once risks are identified, measured, and controlled, an effective monitoring system limits the possibility of risks recurring or accumulating to the level that is beyond the reasonable toleration limits of the institution. Responsibility for the monitoring of various risk issues may be at differing levels and be accomplished through different means. Consider the institution's risk monitoring as a pyramid, at the broadest point of the pyramid would be business line self-assessments followed by risk management/compliance/internal audit assessments. Then business line oversight committees are responsible for oversight at the business line level. The overall fiduciary committee manages down through the business line oversight committees under the supervision of the institution's board of directors (the highest point of the pyramid). Serving as a wrapper around each of these risk monitoring groups are clients, shareholders, external accountants, and applicable federal and/or state regulators.

Tools used by each of the aforementioned risk monitoring groups include, among other things, secondary reviews; quality assurance testing by risk management or individuals within the business lines; sample testing of output at each key checkpoint of processes; the monitoring of key risk indicators with an established protocol for raising issues outside of tolerance levels to the correct level of the institution; employee performance evaluations; peer reviews; and compensation analysis.

Independent risk monitoring groups, such as Fiduciary Compliance, Fiduciary Risk Management, and Fiduciary Audit play in important role in an effective risk monitoring program. Although mentioned earlier in this article under the topic of Risk Management Responsibilities and Role Definition as well as detailed under Attachment 2, the general Fiduciary Compliance, Fiduciary Risk Management, and Fiduciary Audit risk monitoring responsibilities are discussed as follows. The Fiduciary Compliance team is responsible for regulatory compliance monitoring, testing, regulatory environment change management, and monitoring for code of ethics compliance. The Fiduciary Risk Management team is responsible for quality assurance, policies and procedures, developing and maintaining key risk indicators, trending and analyzing findings from compliance and internal/external auditors, and the new product approval process. Fiduciary Audit evaluates the adequacy of controls, the effectiveness of controls, the appropriateness and effectiveness of policies and procedures, and monitoring the code of ethics hotline.

On the following page is a pictorial depiction of how such a risk monitoring model may work in practice.

Fiduciary Risk Monitoring

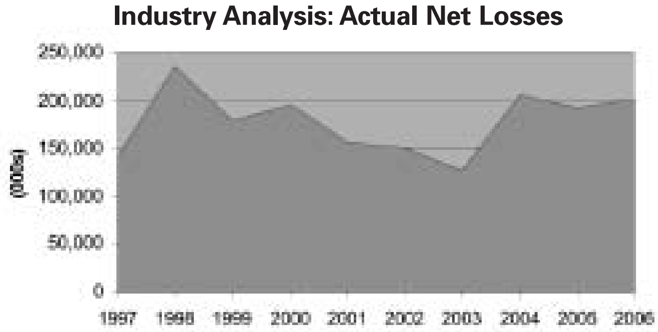


Summary and Conclusions

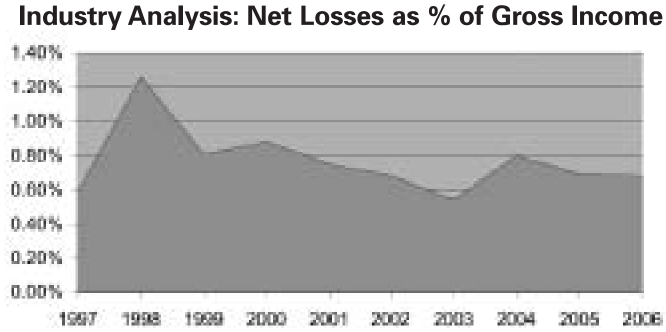
Trust institutions operate with risks they don't realize they have and there are many significant reasons why an effective fiduciary risk management program must be established. Well understood risk management responsibilities and role definitions are essential to the overall success and efficiency of the fiduciary risk management program. Although trust institutions have flexibility in designing risk oversight committee and department staffing structures, there are advantages and disadvantages that must be considered. Risk identification and measurement methods, although varying among trust institutions, must be implemented and documented. Risk control must be based on a thorough understanding and prioritization of identified risks. Finally, risk monitoring is performed at many different levels by business groups and more independent compliance, risk management, and audit teams.

This article was not designed to discuss what fiduciaries require as minimum standards for fiduciary risk management programs. Although reference material is provided, it is anticipated the reader already understands minimum risk management program standards. Rather, this article is intended to provide practical examples of how trust institutions have implemented risk management requirements and displays examples of how one or more elements of a fiduciary risk management program might appear. Perhaps by taking one or more of the practical application experiences discussed herein, you will be able to bring in a new dimension to the fiduciary risk management program at your bank and, at the same time, help give yourself that peace of mind you so much desire as a risk management professional.

Attachment 1



Per Institution Annual Loss $60,000



10 Year Average: 0.77% Less Than 1%!!!!!!

Attachment 2 – Trust Institution Oversight Responsibilities

Audit	♦ Assist the BOD in monitoring compliance with legal and regulatory requirements. ♦ Review and approve specific regulatory compliance programs as required by statute. ♦ Review the scope and content of all regulatory exams and ensure the suitability of management corrective action. ♦ Annually review compliance performance.
Risk Committee	♦ Determine corporate objectives. ♦ Establish qualitative/quantitative risk appetite boundaries. ♦ Ensure business lines and support groups are aligned with strategy and corporate goals.
Corporate Compliance	♦ Review and provide guidance on compliance risk management program. ♦ Provide senior management review of company's overall state of compliance and operational risk metrics. ♦ Provide quarterly reports to Audit Committee. ♦ Review annual "state of compliance" report with the Board of Directors. ♦ Respond to regulatory inquiries regarding legal issues. ♦ Understand and provide support to key compliance initiatives. ♦ Champion a culture of compliance.
Business Line	♦ Responsible for identifying, assessing, taking, and mitigating business risks. ♦ Accountable for BL compliance performance. ♦ Manage day-to-day compliance activities. ♦ Train and hold associates accountable for compliance performance. ♦ Develop and implement business line policies and procedures. ♦ Drive a culture of compliance. ♦ Coordinate with Corporate Compliance and Enterprise Risk Management.
Trust Compliance	♦ Responsible for developing and implementing comprehensive fiduciary monitoring and testing programs. ♦ Ensure regulatory changes are properly communicated and imbedded in the corporate culture in a timely manner. ♦ Monitoring completion of management responses to control findings and testing proper completion of corrective action to core regulatory findings. ♦ Assisting in the accurate and timely filing of regulatory reports (beneficial ownership). ♦ Assist in the preparation and coordination of fiduciary regulatory reviews. ♦ Develop and maintain trust policies. ♦ Coordinate the Trust Board meetings.
Legal	♦ Interpret laws and regulations. ♦ Provide expertise and guidance regarding laws and regulations. ♦ Manage litigation and disseminate information as appropriate.
Internal Audit	♦ Perform independent compliance testing. ♦ Evaluate and assess the effectiveness of corporate and trust compliance practices and procedures. ♦ Report findings to management and the audit committee as appropriate.
All Associates	♦ Understand and meet all regulatory and ethical requirements associated with his or her position. ♦ Follow policies and procedures. ♦ Adhere to Code of Ethics. ♦ Seek appropriate guidance when necessary.

Attachment 3 – **Risk Management Program Minimum Standards**

An effective Risk Management Program requires an understanding of the specific needs and risk tolerance levels of the bank, as well as the types and characteristics of assets managed and advised by the bank. Risk is commonly described by relating it to the uncertainty or the volatility of a potential outcome over time. The source, probability, and impact of this uncertainty depend on the particular asset and/or service.

Risk Management processes must be developed and implemented to effectively Identify, Measure, Control, and Monitor the risks affecting each of these entities. The client's needs, objectives, and risk tolerance can and often does differ from those of the bank; therefore the bank's processes should recognize and appropriately address these differences.

Risk Identification

Risk is commonly described by relating it to the uncertainty or the volatility of a potential outcome over time. The source, probability, and impact of this uncertainty depend on the particular asset and/or service. Risk Identification processes assist in determining what the risks are, how they should be measured, and what controls and monitoring systems are needed. The Risk Identification process lays the foundation for the entire Risk Management Program. There are various risks that should be considered when developing the Risk Identification process. These include:

- Transaction Risk
- Compliance Risk
- Strategic Risk
- Reputation Risk

A bank's failure to manage these risks in a prudent manner can adversely impact the overall risk profile of the bank and subject it to decreases/losses in earnings and capital.

Prior to identifying risks within the business line the bank should have established acceptable risk levels and criteria. Areas to consider include:

- Establish strategic direction, risk tolerance standards, and an ethical culture consistent with the organizations strategic goals and objectives.

  What is the overall strategic direction for acceptance and retention of various products and services?
  - Do the current accounts holding various assets meet or exceed this strategic direction?
  - What efforts need to be taken to ensure that those not meeting the strategic direction are brought into line?
  - Does the strategic direction for account administration need to be redefined or adjusted based upon current circumstances?

  What risk tolerance standards and criteria have been developed?
  - Does management recognize and understand the potential liability of their portfolio?
  - Has management approved and provided guidance for acceptable levels of risk? Committee Acceptance and Review?
  - What reporting mechanisms are in place to provide ongoing information as to the level of risk?
  - Has management developed an Investment Policy Statement with guidelines and criteria?
  - Does Audit and Compliance have specific review procedures and have they been implemented?

  What efforts have been undertaken to ensure that personnel are knowledgeable and aware of specific administration issues?
  - What levels of training and education have been provided?
  - What certifications have been acquired?
  - What policies and procedures have been developed?

- Establish an appropriate organizational structure with clear delineation of authority, responsibility and accountability throughout all levels of the organization.

  What specific operations units exist?
  - Are different accounts and services administered by a separate unit?
  - Are procedures and practices consistent throughout the organization?
  - What are the reporting lines for all related services?

  What guidance has been developed regarding acceptance responsibility and ongoing reviews?
  - What is the Committee responsibility?
  - Have Acceptance Procedures and Polices been established?
  - Are policies reviewed and updated as necessary?

  What divisions or units are responsible for review and monitoring?
  - What is role of Senior Management?
  - What is the role of Audit and Compliance?
  - If deficiencies are noted, or risks are identified, how are them reported and corrected?

  Do administrative practices conform to Fiduciary Law; Regulatory Compliance; Industry Standards, and Client Objectives?
  - What specific processes and procedures have been developed for ensuring compliance with all areas of fiduciary duty?
  - Who is responsible for the development of such policies?
  - Are the policies and procedures current?

- Establish an effective practice for ensuring that the needs and objectives of individual clients are being addressed and implemented.

  What are the current practices for discussing and identifying the needs/ objective of the client?
  - What client communication activities take place to ensure that the account objective is current and timely?
    - Verbal communication with memo updates to the file.
    - Standard forms and questionnaires
    - Internet-based communication and "check the box" data
  - For individual account administration, what practices are employed to ensure that areas such as Modern Portfolio Theory and the Prudent Investor Rule are being followed?
  - What process is used to ensure that an asset or product is best suited to meet the account need?
  - What ongoing process, (annual review) is in place to provide for periodic discussion of client objectives and a consideration for the above mentioned items?

  What is the procedure when the objective no longer requires a specific asset or product, or a better product exists?
  - Do all asset holdings currently conform to and address the current client objective?
  - What practice is used to determine the effectiveness or appropriateness of the current asset or product?
  - What communication is held with client's to discuss their account needs?

What information and criteria are used to ensure that the client is receiving the service and product that was originally presented at sale/acceptance?

Do the clients conform to Trust Client criteria/requirements?
- Do existing and new clients meet account and revenue minimums?
- Do existing and new clients have the potential to meet account and revenue minimums?
- Do existing and new clients provide the gateway to other sources of financial planning and trust revenue?

- Establish effective pricing guidelines for management and administration of all accounts.

Have specific Board approved pricing guidelines and policies been established?
- Are the pricing guidelines specific to the level of risk inherent in the service?
- Are the pricing guidelines consistent with industry standards and best practices?
- What review and approval process have the pricing guidelines gone through?

Have the Board approved pricing guidelines been consistently applied and enforced?
- Do deviations from approved guide lines exist?
- If deviations exist, what approval process have they gone through?
- Does documentation exist for deviation approval?
- Does Audit and Compliance review and test for pricing consistency and adherence to guidelines?

Does pricing provide for both the coverage of associated expenses and the realization of a profit margin?
- How is this managed and reviewed?
- What exceptions are noted?
- What are the associated expenses within the department?
- What is the potential unreported risk?

Needs/Requirements

Policy and Procedure Manual/Handbook
- Establishment of Acceptable Risk Criteria for the products and services being offered
- Establishment of both Acceptance and Monitoring Guidelines
- Establishment of required information and documentation
- Establishment of appropriate operational structure
- Establishment Investment Policy Statement
- Establishment of Administration Guidelines
- Establishment of Operational Guidelines
- Establishment of Risk Mitigation Program
- Establishment of Industry Guidelines, Forms, and Regulation (Appendix)
- Establishment of Pricing Criteria and Guidelines

Understanding of all client account objectives
- Discuss and document the objective of each account. (Caveat: Be sure to differentiate between those accounts that are discretionary and those that are custodial in nature)

Understanding of outstanding liability and capital at risk

Risk Measurement

Risk Measurement requires a complete understanding of the products and services being offered and administered. The application of a risk measurement process will depend on the type of account, the bank's fiduciary responsibilities, and the needs of the client. Because advances and improvements in the industry and the products and services, the methods analyzing, estimating, and reporting performance and risk measurement are becoming increasingly sophisticated and reliable.

Needs/Requirements

Knowledge of Outstanding and Potential Liability
- Potential Real $ Amount
- Potential Non-quantifiable Amount
  - Reputation
  - Compliance
  - Legal
  - Operational

Establishment of Appropriate Risk/Return Measuring Criteria

Development and Implementation of Risk Measurement Tools – …hard to know where your risk is when it all looks risky."

Administration Review and Report Policy and Procedure Handbook/Manual
- Establishment of Risk Measurement Criteria
  - Time Period and Frequency Requirement
  - Benchmarks
  - Items to be measured
  - Reporting Processes

Risk Control

Risk Controls are policies, procedures, processes, practices, and systems established to control risk. Such controls are essential to the management function of a trust department. These controls help maintain risks at levels consistent with the overall organization's risk tolerance. They ensure that strategies are appropriate for each client's circumstances. The bank should have a comprehensive program of controls for managing a client's account and the risks associated with that management function to the overall organization. Risk Control is especially important with regard to fiduciary responsibilities and liability.

Policies: Approved written policies and documentation standards.

What are the current standards for the organization regarding the current and anticipated business? Do they have an approved standard?
- What is the investment philosophy and risk tolerance criteria?
  - Have risk limits been established to address risk?
  - Do operating procedures exist for risk control?
  - What existing control processes are in place?
    - Audit and Compliance
    - Peer Testing
  - Detailed investment policy guide lines, do they exist?
  - Does the policy address specific types of client portfolios?
    - Discretionary
    - Non-Discretionary
    - Co-Trustee
    - Successor Trustee

Are these policies consistently applied throughout the organization?

Are definitions provided in the policy? How is the policy disseminated to all impacted and effected employee?
- How are employees trained and educated on the policy?
- Updates/Revisions to the policy?
- Is there a confirmation program that effected employees must sign attesting to their knowledge and understanding of the policy?

How often is the policy reviewed?
- Is the review documented in the appropriate Committee minutes?

Procedures:

Do procedures exist for Account Review processes?

- Pre-Acceptance Review
  - Does the bank have expertise to manage the account?
  - Does the bank have adequate systems to administer the account?
  - Does the bank perform a due diligence review on all assets that will be funding or comprising the account?
  - Is the Pre-Acceptance review documented and does it state the client's account objective?
  - Do all potential accounts go through committee for approval?
- Post-Acceptance Review
  - Upon acceptance of the account, is the account and its asset holdings reviewed to determine appropriateness?
  - Upon acceptance has an individual investment policy statement been developed for the account?
- Annual Review
  - Does the procedure address the requirement or need for annual/ periodic reviews?
  - Do procedures outline the need to update client account objectives?

Do procedures address the requirements of fiduciary authority and responsibility?

- Are guidelines applied consistently?
- Are objectives established for each account?

Do procedures exist to establish the likelihood or potential or threatened litigation on all accounts?

Are internal risk limits established for the overall portfolio; individual administrator portfolios, etc?

Are revenue minimums established for the overall portfolio, individual administrator portfolios, etc?

Do the procedures address the separation of duties and the need to have independent oversight?

Do the procedures outline asset valuation guidelines?

- If this is done internally, are the appropriate checks and balances in place for an independent and accurate valuation?
- If delegated to an external provider, do they have appropriate expertise and checks and balances? Is there a conflict of interest?

Do the valuation guidelines adhere to and conform to the valuation standards established for the asset?

- Fiduciary Law;
- Regulatory Compliance;
- Industry Standards; and
- Client Objectives

Is the valuation method documented? Is it applied consistently to all products?

Do procedures exist to ensure that valuation methods are explicit and their accuracy can be independently verified?

Do the policies require the approval of Senior Management for any valuation process where the provider also controls the asset or has a vested interest to either deflate or inflate the evaluation?

Personnel: Successful implementation of business strategies and risk mitigation requires a knowledgeable and responsible management group and well-trained and capable professionals in all areas of the organization. To effectively manage personnel, the organization must address staffing needs, compensation programs, continuing education requirements, and third-party delegation practices.

Have staffing requirements been addressed by Senior Management?

- What requirements are needed?
- Internal or External?
- Have succession plans been addressed and outlined?

Is compensation paid commensurate with the risk?

- What is the total amount of potential risk?
- What is the total amount of revenue?
- Is the compensation for Administration and Management appropriate for the level of risk?

If Third-party providers are used, is this authorized by applicable law?

Information and Technology Reporting Systems:

Do procedures address the need to effective IT and Reporting systems?

Internal Reporting and Exception Tracking: If the bank is to manage all risks effectively, reporting must be adequate. Reports should accurately and comprehensively cover all assets and accounts under management.

Do procedures and practices address the requirements to reporting? Does the practice discuss:

- Investment Policy Exceptions
- Early Warning or Watch List Reporting
- Risk Potential Amount
- Policy Compliance Exception Reports
- Audit Deficiency and Corrective Action Report
- Examination Criticism and Action Report

Do procedures address who is to receive reports and when they are to be escalated?

Client Reporting:

What information and reporting, if any is passed along to the client?

- How is this information communicated?
- Is the information communicated consistently to all parties?
- What is required to be communicated?

Contingency and Disaster Recovery Plans:

Does the procedure outline what needs to be done in the event of disaster?

What is the recovery plan specific to overall administration?

Product Development and Management Team

Does the bank have a Product Management Team?

What are the roles of the team?

Risk Monitoring

Risk monitoring processes and practices are established to evaluate the performance of the bank's control processes in mitigating risk and assuring compliance with policies and regulatory requirements. Sufficient policies, procedures and internal controls are needed to ensure an effective risk management program. When properly monitored, well-developed policies, procedures and internal controls promote efficiency and compliance with law, regulations, and sound fiduciary principles, and deter losses through charge-offs and surcharge. Functions such as the Audit and Compliance programs provide an excellent way to monitor risk levels.

Attachment 4 – Trust Department New Product and Services Risk Management Committee Initial Approval Form

Name of Product / Service:
Date Form Prepared:
Sponsor Name:
Date of Planned Project Implementation:

Describe the New Product / Service.

____
____
____
____

Please provide a copy of the written Business Plan or Business Proposal for this new product / service, including any measurement standards for the success of the product and an exit strategy if the product / service does not meet or surpass the measurement standards.

Please describe any anticipated controls that exist or will be implemented over the new product / service, such as dual controls, manager approvals, next day reviews, end of day balancing, etc.

____
____
____

Please describe any anticipated monitoring reports that exist or will be implemented over the new product / service, such as system generated or non-system generated reports, queries, etc.

____
____
____

Strategic Risk

Please discuss the strategic effect of this new product / service as relates to the over strategic goals of the trust department or bank.

____
____

Reputation Risk

Will this new product / service affect a broad base of existing clients?
Yes ☐ No ☐
If yes, what is the planned implementation schedule?

____
____

If this new product / service will affect a broad base of existing clients, please discuss the client notification that will be provided, if necessary.

____
____

Will this new product / service attract a new base of clients? If yes, please provide more information.
Yes ☐ No ☐

____
____

Transaction (Operational) Risk
Please provide the projected volume of new or additional transactions related to this new product / service.

____
____

Will any additional operations employees or employees with different expertise levels need to be hired to support this new product / service?

If new automated systems will support this new product / service, is a testing plan in place and being implemented of those systems? Please provide details, including testing results if available.

Compliance/Regulatory Risk

Please provide details on any "Regulatory" or "Compliance" requirements related to this new, product, system or strategic initiative (e.g. Office of Thrift Supervision regulations, SEC rules, ERISA, IRS Requirements, Fiduciary Law, etc.), if applicable.

Please discuss existing or additional policies needed for this new product / service.

Please discuss new written procedures drafted for this new product / service.

Financial (Accounting) Risk

Please describe how this new product / service will impact or modify in any way the direct or indirect posting of financial transactions to the general ledger and financial statements of the trust department or bank.

If applicable, has a flow diagram been prepared of how financial transactions will be posted as a result of this new product / service? If yes, please attach to this document.

If applicable, has an appropriate finance group been identified to take responsibility for this new product / service? If yes, please explain below.

Has a cost/benefit analysis been performed on this new product / service? If yes, please attach.
Yes ☐ No ☐

Legal Risk

Please discuss legal issues that have been discussed or researched related to this new product / service.

To support this new product / service, will there be any need for new Service Agreements or must existing Service Agreements be amended? If yes, please discuss below.
Yes ☐ No ☐

New Business Risk

Discuss what marketing group will be used and the marketing strategy for this new product / service.

____
____

Have clear parameters been established in writing regarding what capacity the trust department/bank will serve in relation to this new product / service (Trustee, Agent Only, specific duties or functions the trust department will accept)? Please discuss.

____
____

Please discuss written process that have been developed defining what group has the authority to accept an appointment or duty outside of routine pre-determined parameters.

____
____

If applicable, have clear parameters been established in writing regarding what services affiliated and unaffiliated third parties will be providing for this product / service? For unaffiliated third parties, has sufficient due diligence been performed on the vender and have written service agreements been prepared?

____
____
____

Based on the above responses, please assign individual residual risk ratings to each category below and an overall residual risk rating:

Strategic Risk High ☐ Medium ☐ Low ☐
The risk of bad business decisions (i.e. fiduciary, investment, new product initiatives, etc.).
Reputation Risk High ☐ Medium ☐ Low ☐
The risk that negative publicity regarding the trust department's business practices, whether true or not, will cause a decline in the customer base, costly litigation, and/or revenue reductions.
Transaction (Operational) Risk High ☐ Medium ☐ Low ☐
The risk that inadequate systems, operations functions, internal control breakdowns, fraud, or other catastrophes will result in the impairment of product or service delivery.
Compliance/Regulatory Risk High ☐ Medium ☐ Low ☐
The risk that nonconformance with laws, regulations, ethical standards or appropriate business operating practices will result in audit, compliance, or regulatory criticisms resulting negatively on regulatory ratings and relationships and overall business objectives.
Financial (Accounting) Risk High ☐ Medium ☐ Low ☐
The risk of financial exposure due to errors, omissions, misappropriations and/or settlements.
Legal Risk High ☐ Medium ☐ Low ☐
The risk that complaints, lawsuits, and/or adverse judgments can disrupt or otherwise negatively impact the operations or condition of the trust department.
New Business Risk High ☐ Medium ☐ Low ☐
The risk of soliciting and accepting an account that results in financial, reputational, legal harm to the institution.
Overall Risk High ☐ Medium ☐ Low ☐
Please provide any comments to support the assigned Overall Risk Rating. (Please note any mitigating oversight, controls, or processes that will reduce the overall level of risk)

____
____

For Committee Use Only:

New Product / Service ____

Approved ☐ Not Approved ☐

Conditions for approval such as risk controls and/or monitoring processes required.

____
____

Attachment 5 – Trust Department New Product and Services 180 Day Evaluation Form

Name of Product / Service:
180 Day Evaluation Form Date:
Sponsor Name:
Date Originally Approved by Risk Management Committee:
Date of Project Implementation:

Describe any changes to the product, system, or strategic initiative and related business plan that have occurred during or since the date of implementation:

____
____

Describe any changes to the control environment from what was originally listed on the Risk Management Committee Initial Approval Form previously approved by the Risk Management Committee:

____
____

Describe the effectiveness of the Monitoring Reports previously approved by the Risk Management Committee, commenting upon how open items are resolved and who is accountable for such resolution:

____
____

Describe any Risk Management Committee original approval conditions, if any, which remain unresolved as of the date of this 180 day evaluation. Provide information on when the unresolved open items will be addressed:

____
____

Key Progress Measurements versus Planned Projections

Project Implementation ____________________ (Date) to 180 Day Evaluation _______________________ (Date)

	Annualized Actual	**Annualized Projected**
Number of New Accounts:	____________	____________
Amount of New Assets:	____________	____________
Amount of New Revenue:	____________	____________
Other Progress Criteria[3]:	____________	____________
(1)________	____________	____________
(2)________	____________	____________
(3)________	____________	____________
(4)________	____________	____________

Please discuss any difference between the original projections and actual results to date.

____
____

Transaction (Operational/Technology) Evaluation

Have actual volumes associated with this new product or service exceeded original projections previously approved by the Risk Management Committee? If yes, provide information on plans to address the additional volumes being experienced?

____
____

[3]Other Progress Criteria is determined by the Project Sponsor based on the trigger points found in the exit strategy previously presented to the Risk Management Committee and the unique circumstances of the new product or service.

Discuss impact on Technology; has processing been performed straight thru or manual?

Discuss any Tax issues (including client, Trust Department, or service provider tax issues).

Compliance/Regulatory Evaluation

Have any additional regulatory or compliance requirements surfaced in connection with this new product or service since the original project was approved by the Risk Management Committee?

Please explain any enhancements to procedures that were required since this new product or service has been processed in a live environment.

Financial (Accounting) Evaluation

Please discuss any unanticipated financial or accounting processing issues not discussed elsewhere in this evaluation form.

Reputation Related Issues Evaluation

Discuss any client feedback or marketing related issues identified during the first 180 days of this new product or service.

Legal Evaluation

Please explain any enhancements to procedures that were required since this new product or service has been processed in a live environment.

Strategic Evaluation

Discuss unanticipated effects of this new product or service on the overall strategic goals of the institution, if any.

New Business/Sales Evaluation

Have all planned marketing and training materials gone into full production with clients and employees where necessary? If No, explain.
Yes ☐ No ☐

Discuss sales team feedback on the new product or service.

Discuss unanticipated sales related issues that have surfaced since this new product or service went live.

All Other Factors

Describe any other risks or concerns with this product. Some examples might include the following among others: competitor issues or reactions related to the new product or service, additional infrastructure needs, or any unanticipated benefits or requirements related to affiliated organizations.

Risk Management Committee Use Only

Determine if any adjustments are necessary of the individual risk ratings assigned when the Risk Management Committee previously approved the new project.

	Original Risk Assignment	**180 Day Risk Assignment**
Transaction (Operational/Technology)	High/Medium/Low	High/Medium/Low
Compliance/Regulatory	High/Medium/Low	High/Medium/Low
Financial (Accounting)	High/Medium/Low	High/Medium/Low
Reputation	High/Medium/Low	High/Medium/Low
Legal	High/Medium/Low	High/Medium/Low
Strategic	High/Medium/Low	High/Medium/Low
New Business	High/Medium/Low	High/Medium/Low
Overall	High/Medium/Low	High/Medium/Low

Discuss any individual ratings that are being adjusted higher or lower.

Attachment 6 – Annual Vendor Risk Assessment Form

Annual Vendor Risk Assessment Form		
Vendor Name		
Vendor Address		
Services obtained from Vendor		
Trust Department Contact on the Vendor		
Vendor Fee Arrangement		
Vendor Corporate Actions (Mergers, Acquisition, Spinoffs, etc.)		
Privacy Officer Review of Vendor Information		
Notes on Vendor's most recent SAS 70 report, highlighting significant testing exceptions.		
Credit Rating (Outlook, Moodys, or S&P)		
Vendor Financial Information (If Credit Rating is not available)	{Date - Current Year}	{Date - Prior Year}
Total Assets		
Total Equity		
Income After Taxes		
Cash Flow From Operations		
Net Cash Flow		
Other material risk issues identified as they relate to services provided to the trust department.		
Open issues identified by the technology group responsible for monitoring vendors.		
Open issues identified by the institution wide group responsible for vendor contracts and overall supervision.		
Open issues identifed by the treasury department related to correspondent banking institution.		

Attachment 7 – **Local Administrative Risk Assessment Form**

1) Office Name and Address.

____

____

2) Name of Office Manager____

3) Total market value and number of discretionary and non-discretionary accounts. (Score _________)

____

____

4) Types of accounts under administration and number and market value of each. (Score___________)

a. Irrevocable Court Appointed	# __________	$_______________
b. Irrevocable Grantor	# __________	$_______________
c. Testamentary Trusts	# __________	$_______________
d. Grantor Revocable	# __________	$_______________
e. Individual Retirement Accounts	# __________	$_______________
f. Discretionary Investment Management Agency	#____ ______	$_________
g. Charitable Remainder Unitrust	# __________	$_______________
h. Charitable Remainder Annuity Trust	# __________	$_______________
i. Charitable Lead Trust	# __________	$_______________
j. Life Insurance Trust	# __________	$_______________
k. Custody	# __________	$_______________
l. Other	# __________	$_______________

5) Date the local administrative office was opened.______________________________ (Score _________)

6) Tenure and experience level of current employees and officers. Also comment on employee turnover in the past year. (Score _________)

____

____

7) Number of accounts per officer. Of that number, report on the individual states that govern the accounts being administered by each trust officer. (Score_________)

Trust Officer A:	# ____________________________	States: ____________________________
Trust Officer B:	# ____________________________	States: ____________________________
Trust Officer C:	# ____________________________	States: ____________________________

8) Volume of new and terminated accounts in the last six months for this Local Administrative office. (Score _________)

i. New Accounts: #__________________

ii. Terminated Accounts: #____________________

9) Number of accounts holding own-institution securities in this local administrative office. (Score _________)

\# of Accounts: ____________________

10) Date of previous compliance on-site review, significant findings, and status of resolution. (Score _________)

____

____

11) Ongoing litigation and resolved in the past 12 months for this office.. (Score _________)

____

____

12) Significant complaints ongoing and resolved in the past 12 months for this office. (Score _________)

____

____

13) List of all write-offs in the local administrative office. (Score__________)

____

____

14) Administrative account review exception or risk items identified in the past 12 months. (Score____________)

____

____

15) Other relevant items or issues that should be given consideration or otherwise factored into this local administrative office risk assessment. (Score____________)

____

____

Final Overall Score ____________________

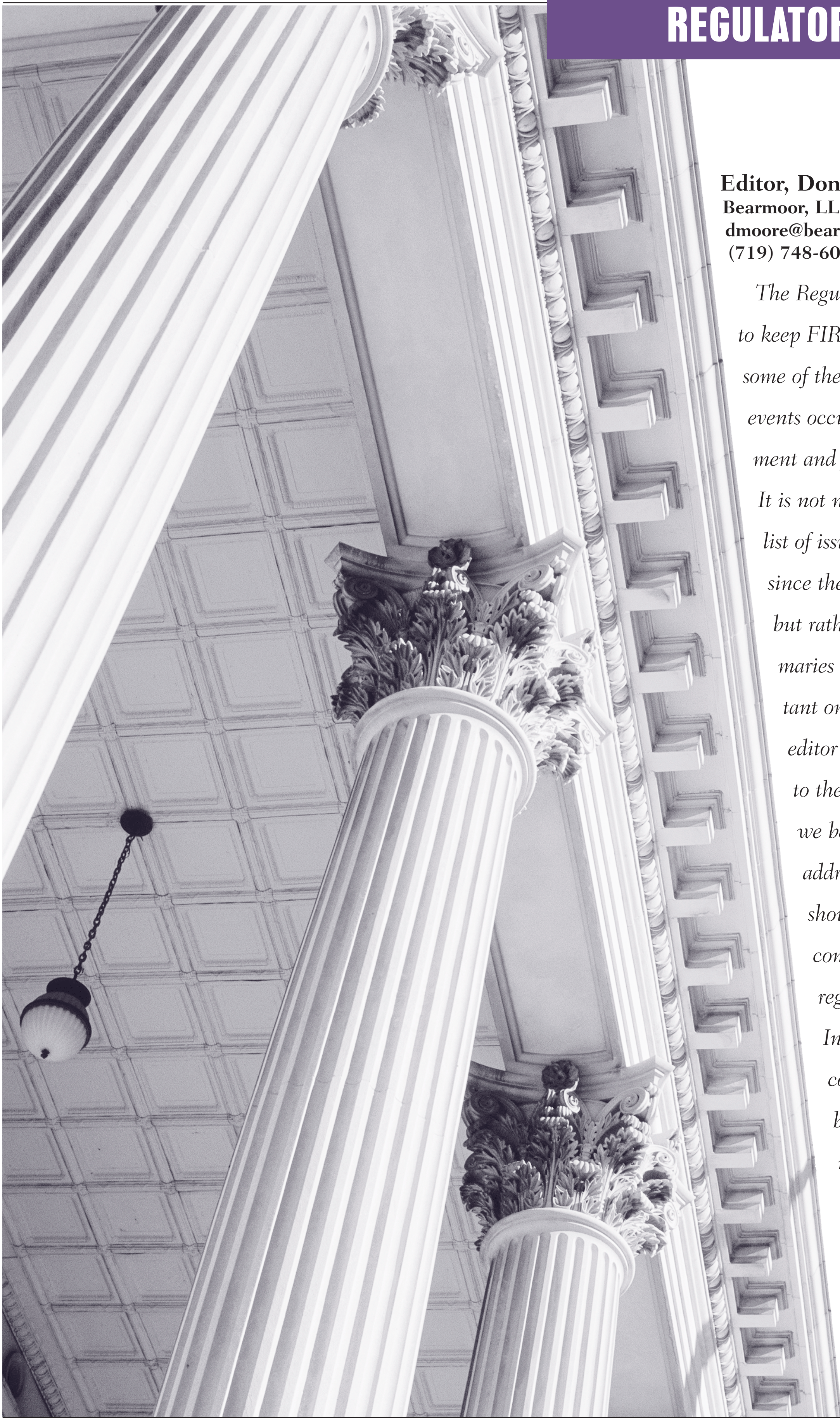
Performed by:____

Date Performed:____

Reviewed by:____

Date Reviewed:____

REGULATORY UPDATE



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The Regulatory Update is designed to keep FIRMA members abreast of some of the important issues and events occurring in the trust, investment and financial services industry. It is not meant to be an all-inclusive list of issues and events occurring since the last newsletter update, but rather to provide detailed summaries of some of the most important ones – those the regulatory editor believes should be brought to the reader's attention. While we believe the subjects addressed are accurate, they should not be relied upon or construed as legal advice with regard to any specific matter. In addition, the information contained in this update is based upon the editor's interpretation and are not the opinions (official or unofficial) of the editor's employers.

REGULATORY UPDATE

Editor's Note: *Welcome to the New Year. As you know, many unique and new challenges will present themselves to the financial industry in 2008. Status quo can no longer be the business model for the fiduciary and investment management industry. While other areas of the financial industry may be retrenching or even posting losses, the fiduciary and investment management arena will continue to challenged for both asset and revenue growth; perhaps increasing their risk profile. In this issue I thought it would be appropriate to outline various speeches that have been given by regulatory agencies. These will assist in shining a light on areas where regulatory concern exists. SEC Gene Gohlke addresses issues surrounding the mutual funds, FRB Governor Mishkin discussing risks associated with the market and investing, and EBSA Assistant Secretary Bradford Campbell discusses issues surround retirement fees and their disclosure. As always, should you have specific items you would like to be presented/discussed in the Regulatory Update, please send your requests to the attention of the FIRMA Forum Editor, or myself.*

SEC: Speech by SEC Staff - "If I Were a Director of a Fund Investing in Derivatives – Key Areas of Risk on Which I Would Focus"

Background

On November 8, 2007, at the Mutual Fund Directors Forum Program Gene Gohlke, Associate Director, Office of Compliance Inspection and Examinations, U.S. Securities and Exchange Commission, provided information regarding areas of risk that should be known and understood by those responsible for the oversight of mutual funds. Below are the salient points from his speech.

Introduction

As you are working your way through the agenda of this program, which is focused on mutual funds use of derivatives, you are learning that the scope of what constitutes a derivative instrument is broad and that derivatives range from the rather mundane convertible bond to the very complex, structured product known as a collateralized debt obligation and, of course, many things in-between. Just as the range of derivative instruments is broad so are the risks assumed by investors in these instruments. There are market, liquidity, leverage, counterparty, valuation, legal and structure risk to name only a few.

As fund directors you are responsible generally for overseeing your fund's investments to make sure that the risks assumed by the fund are consistent with the risk disclosures the fund has made to its shareholders. In addition, you are specifically responsible for establishing fair value procedures the fund is to use in pricing its derivative (and other) positions for which there are no readily available market quotations. You are also responsible for approving codes of ethics of both the fund and its investment adviser to ensure that the ethical principals established are appropriate in light of the environment in which the fund and adviser operate. Finally, you are responsible for determining that all of the fund's compliance policies and procedures and those of its service providers are reasonably designed to prevent violations of the securities laws.

In my time with you today, I want to talk about certain aspects of a fund's involvement with derivative instruments that fund directors should pay particular attention to. The way I want to approach this presentation is to assume that I was a director of a fund investing in derivatives and then identify those areas of risk that I as a fund director would most want to focus on. In the text below, I focus on 12 areas of risk that I think are most important. Within each of these areas, I start by stating a question I would ask and then include a few related thoughts and comments designed to highlight specific activities, risks and compliance tests that I think are important. (Note that while the discussion below is framed in the context of a fund investing in derivatives, these same questions appear to be relevant as regards risks in most funds). As an actual fund director, I would expect to obtain answers to these questions from various of the fund's service providers, its CCO and legal counsel and then based on those answers, determine if the fund's exposure to the risks associated with its investments in derivatives is appropriate in light of fund shareholder's expectations.

Important Areas of Risk

1. **Does the fund's adviser have the intellectual and financial resources to be a knowledgeable, nimble participant in the derivatives in which the fund invests?**
   - How do the group's resources and abilities compare to those of the counterparties the fund will encounter in the marketplace?
   - Can the fund's adviser access and analyze all relevant information to be able to fully understand the probable risks and returns associated with a position; in particular, I as a director would be interested in the following:
     - The specific derivative instruments in which the fund will be investing, the way in which each instrument will be used in achieving the fund's

   - investment objectives and the significant risks associated with each instrument;
   - The information needed to make informed investment decisions and the sources of such information;
   - The means by which sources of information will be compensated;
   - How and by whom will that information be used;
   - Contingency plans to obtain information if the primary sources become unavailable;
- Does the fund's adviser have the necessary human and technological resources to make informed investment decisions and implement those decisions on the best possible terms and conditions;
- Does the fund's adviser have the depth of knowledge and experience regarding each investment strategy employing derivatives so as to be able to effectively oversee and supervise the primary decision-makers and form the basis for backup and continuity of investment decision-making?

2. **Do we investigate before we leap into an investment?**
   - Does the group use a well thought out process, often called a due diligence or new products process or committee, through which every proposed investment in a different type of derivative instrument is subject to vetting by knowledgeable persons from all operational areas (not just those operated by the adviser);
   - Is the objective of this due diligence process to fully probe, analyze and evaluate all features associated with a proposed investment to identify the risks and operational requirements that would come with such an investment and determine if the fund's service providers that will be impacted have or would be able to create the necessary infrastructure to timely and appropriately process, account for, custody, control and report on the new instrument;
   - Can investments in new instruments only be made after all associated risks have been identified and a determination is made that the infrastructure used by the fund's service providers will effectively handle the attributes of these instruments;
   - Does this due diligence process bring together in a deliberative format all disciplines or operational areas that may be impacted by the investment such as:
     - Research
     - Portfolio management
     - Risk management
     - Trading
     - Clearance and settlement
     - Code of ethics and non-public information management
     - Custody/safekeeping
     - Recordkeeping
     - Pricing and valuation
     - Tax
     - Legal/contractual
     - Disclosure and investor reporting
     - Performance calculations
     - Compliance

3. **Is there an effective investment risk management function that has the capacity to regularly identify, measure, evaluate and manage the fund's ongoing risk exposure?**
   - Does the fund's adviser maintain an appropriately staffed function that is independent of portfolio management and which is responsible for continuously measuring the extent of the fund's risk exposure using various tools such as value at risk, stress and scenario testing;
   - Is the risk information used to effectively manage the fund's exposure to risk to make sure the extent of risks taken remain within boundaries established in the fund's disclosures to its shareholders?

4. **Are the investment and operational risks associated with the fund's investments in derivatives fully and fairly disclosed to the fund's shareholders in its prospectus/statement of additional information and in periodic reports to fund shareholders?**
   As a director, I would want to understand the process that is used to ensure that the ongoing level of risk to which the fund is exposed from its investments in derivatives is being fully and fairly described and illustrated in various disclosure documents provided to fund shareholders and that the language used to describe such risks is likely to be understood by the average investor in the fund.

5. **Are all of the fund's service providers effectively preventing the inappropriate use of non-public information that may be received in connection with its investment in derivatives?**
   - Are the adviser's and fund's (and to the extent necessary, other fund service providers) code of ethics and the related policies and procedures established to prevent inappropriate decision-making using non-public information sufficiently broad, proactive and effective to monitor and manage information flows associated with the fund's investment in derivatives;
   - Do codes of ethics fully address relevant compliance

with the federal securities laws by supervised persons in light of the possible additional sources of information and the types of information that will be needed to be an informed participant in the derivatives markets in which the fund is engaged;

- Does testing of access persons trading in their personal accounts reflect ways in which derivatives can be used to effect long and short positions in issuers to take advantage of advance knowledge of trading by the fund or announcements by issuers;
- Do policies and procedures established and implemented as required by Section 204A of the Advisers Act to prevent the inappropriate use of non-public information reflect effectively both traditional and non-traditional sources of information that may come into the possession of access persons.

6. **Is the process used to measure and monitor liquidity/illiquidity of the fund's portfolio effective to ensure that the liquidity available is consistent with ongoing liquidity needs as measured by fund shareholders' purchase and redemption activity?**
   - Have the fund's service providers established and implemented a working definition of liquidity so everyone responsible knows what is to be measured and is using the same benchmark;
   - Have policies been established regarding how frequently liquidity measures will be calculated and the situation evaluated;
   - Have liquidity trigger points been established, using metrics such as various percentages of the portfolio in illiquid positions in relation to net redemption activity, that would require a review of the situation and perhaps changes in the portfolio to increase the amount of liquid assets available?

7. **Is the process for defining, measuring and monitoring embedded or economic leverage associated with any of the fund's positions in derivatives effective to ensure that the fund's aggregate exposure to leverage is consistent with risk disclosures made to fund shareholders and statutory limitations?**
   - Have the fund's service providers established working definitions of economic leverage for the various derivatives in which the fund invests;
   - Is the amount of leverage to which the fund is exposed and the related risks measured regularly and are these metrics evaluated for consistency with disclosures made to fund shareholders and are remedial actions taken as appropriate;
   - Is economic (as well as any balance sheet) leverage assumed by the fund in its derivative positions being managed appropriately through the use of asset earmarking/segregated accounts to ensure the fund's compliance with statutory limitations?

8. **Are the values for the fund's positions used in calculating its NAV reasonable in light of current market conditions?**
   - Do the processes used to value the fund's derivative positions, including the use of the fair value procedures adopted by the Board, provide substantial assurance that the value used each day for each derivative position held by the fund will reflect an amount the fund could reasonably expect to realize on that position in a closing transaction with a knowledgeable counterparty at the time daily NAV's are being determined;
   - With the above stated goal of the fund's valuation process in mind, as a director I would want information about such specific factors as:
     - ◊ Source(s) of daily pricing information for derivative positions needed to calculate NAVs;
     - ◊ Tests applied to prices obtained from pricing services, dealer quotes and outputs of models to ensure that such prices are appropriate
     - ◊ If pricing information is obtained from a pricing service and the values are anything other than a pass-through of closing market prices, familiarity with their process for determining values given to the fund
     - ◊ If internal models are used to create prices, the factors and assumptions used by such models and the periodic testing done to evaluate the appropriateness of the model inputs as well as the algorithms used in the model
     - ◊ Secondary sources of pricing information
   - Knowing that the Board is responsible for fair valuation procedures and that derivatives may require fair valuing, the Board will need to obtain detailed information about the factors affecting the value of each of the different types of derivatives the fund may hold and how those factors can be used to estimate fair values;
   - I would also want to make sure that there was a regular flow of information coming to appropriate decision-makers regarding how the fund's fair value procedures are being used in practice and how accurate the fair values used are in estimating market values. In regard to accuracy of fair values, I would expect that a number of appropriate tests would be used to gauge such accuracy. The following are among the tests that could be used:

- ◊ Comparing today's prices for each instrument to yesterday's price
- ◊ Change in today's price for an instrument from yesterday's price compared to change from yesterday to today in a relevant index or for comparable instruments
- ◊ Identifying instruments whose prices have not changed over a period of a week or so, especially in times of volatile markets
- ◊ Comparing change in fund's NAV from one day to the next to changes in one or more benchmarks to which the fund compares its performance or that reflect activity in the market sectors in which the fund is active
- ◊ Volatility in a fund's NAV from day to day and over longer periods in relation to volatility in observable market factors and in comparison to internal estimates and projections
- ◊ Periodically closing out one or more positions that have been fair valued for an extended period, using transactions that are otherwise consistent with investment decisions made for the fund's portfolio, to test the price realized upon close out to carrying value of the position in days leading up to the closing transaction
- ◊ Compare all prices realized in closing transactions with arms length counterparties with previous day's carrying values and analyze differences for any pattern of skewing that suggests systematic over our under valuation
- ◊ Compare prices fund uses to prices for the same instruments used by a prime broker or a counter-party for a position
- ◊ Analyze trade blotter to look for a pattern of transactions with one or more BDs that are sources of quotes used to price fund positions (sham transactions) that suggests an attempt by fund insiders to manage the valuations used by the fund

- In addition to forensic testing, a number of other compliance procedures are important to ensure prices used accurately reflect current market factors. In particular I would want information regarding the controls used to manage overrides of prices obtained from pricing services, broker quotes or output of fair value models and specific information regarding any pattern of overrides for specific derivatives held by the fund;
- Finally, I would want to understand the process used by the relevant service provider to properly classify each derivative position held by the fund on a financial reporting date into one of the 3 valuation tiers established by FASB 157 and whether written explanations of changes in Tier 3 exposures are accurate and understandable to the average reader?

9. **Are operating processes used by the entities providing back office services for the fund's derivative positions robust, produce timely results and have sufficient depth to handle unexpected events and spikes in activity?**
   - Have all back office service providers such as administrators, pricing agents, and custodians established and implemented effective policies and procedures that address every aspect of the services they provide to the fund;
   - Do these service providers use relevant tests to measure the level and quality of their services and are the results of these tests available to the fund's CCO for oversight and monitoring purposes;
   - Have these service providers established effective processes for anticipating the occurrence of disruptive events and established backup plans and alternatives for handling the impact of these disruptive events.

10. **Are the compliance procedures of the fund and its service providers effectively managing all material compliance risks regarding the fund's investments in derivatives and include a menu of testing for compliance in critically important areas?**
    As a fund director and knowing that the Board is responsible for reviewing and approving the compliance policies and procedures of its service providers:
    - I would want to make sure the board focuses specific attention on those policies and procedures that are used to control critical activities regarding the fund's investments in derivatives such as information flows, liquidity, leverage and valuation;
    - I would devote specific attention to the forensic tests used to make sure such policies and procedures have been implemented effectively and that appropriate follow-up and corrective actions are taken regarding shortfalls and compliance breaches identified in exception and other compliance-related reports.

11. **What role does the fund's CCO have in monitoring the fund's exposure to derivatives and how can the CCO be used most effectively as the "eyes and ears" of the Board in regard to overseeing the risks associated with the fund's investments in derivatives and ensuring that such risks are consistent with disclosures to and expectations of the fund's shareholders?**
    As a fund director I would engage in a continuing dialogue with the fund's CCO regarding how the CCO, giving due

regard for all of the other responsibilities that come with the position, can assist the Board in effectively monitoring the fund's investments in derivatives, including the risks it is taking, the returns being earned for assuming those risks and how these risks and returns can most effectively be communicated to fund shareholders.

12. **What information regarding the fund's exposure to derivatives' risks and returns will the Board get on a regular basis and what information should it get on an exception basis to keep it informed regarding the fund's investment in derivatives?**
    - As a fund director, I do not want to micro-manage the fund's investments in derivatives. However, recognizing that such investments can create a significant risk exposure for fund shareholders I would want either to receive or, at least, have access to reports prepared for other persons that would give the Board the information it needs to effectively oversee the fund's investments in derivatives in a manner that is likely to be consistent with the expectations of fund shareholders.
    - Examples of information for a fund investing in derivatives I would want to have access to on a regular basis (weekly /monthly), perhaps in the form of "dashboard reports" delivered in paper format or available in an on-line space on the group's internal web site, include the following:
      - Average daily gross and net assets
      - Average of daily assets in illiquid positions as a percentage of daily net assets
      - Average of daily assets earmarked or in segregated accounts for Section 18 purposes as a percentage of daily net assets
      - Average daily net sales/redemptions as a percentage of net assets
      - Number of days during period in which the change from the previous day's NAV per share exceeded the per share value at risk for that period
      - Total return for the period compared to total return for the period on a relevant market index
      - Average daily total amount of assets for which fair value was used in calculating NAV as a percentage of average daily gross assets
    - In addition to a regular flow of information as described above, I would have standing instructions with the fund's CCO and its service providers that I will want to be informed regarding unusual or exceptional matters that may arise regarding the fund's investments in derivatives. Examples of such matters could include, failure of a counterparty to a position held by the fund to perform as required; significant operational or control breach at a service provider; pricing model unraveling requiring a change in fair value procedures; and a sudden, material change in a measure that is otherwise reported to the Board on a periodic basis.

Conclusion

I appreciate that many of the questions I've thrown out here today raise complex and difficult issues; often, they'll require different answers in different situations. But as a director, I would want to recognize that the potential benefits of investing in derivatives may quickly dissolve into disaster. I would want to understand those risks, be assured that the fund's service providers understood those risks, and have seen that appropriate processes and systems were put in place to manage, monitor, and mitigate those risks. Only then would I feel comfortable in exposing the fund and its shareholders to derivatives.

FRB – Speech by Governor Frederic S. Mishkin at the Risk USA 2007 Conference in New York on November 5, 2007.

Background

On November 5, 2007, Federal Reserve Board Governor Frederic S. Mishkin provided a speech to the attendees of the Risk US Conference in New York. In his speech Governor Mishkin discussed financial instability and monetary policy, including various risks associated with the current environment. While the majority of his comments discuss the current situation in the mortgage industry, the risks discussed must be considered when making any investment decision for fiduciary accounts. Below are the comments from Governor Mishkin's speech.

Information

Financial Instability and Monetary Policy: After operating for years under very favorable conditions and ample liquidity, financial markets came under stress last summer and have not yet fully recovered. This ongoing episode has reminded investors and policymakers alike that financial instability, if allowed to develop fully, could have severely negative consequences not only for the functioning of financial markets but also, importantly, for the macroeconomic prospects of our country as well as others. It is this connection with the real side of the economy that makes financial stability a central concern for me and my colleagues at the Federal Reserve and at other central banks around the world.

Policymakers, particularly those in a central bank, are faced with the questions of what they should do to prevent financial instability and what their responses should be when financial instability threatens to compromise economic performance. To start answering these questions, we must first understand the nature of financial instability and how it might affect the macroeconomy.

The Nature of Financial Instability: The financial system performs the function of efficiently channeling funds to individuals or corporations with worthy investment opportunities. If shocks interfere with the information flows that are necessary for a smooth functioning of the financial system, the system can be disrupted and financial instability can arise. By disrupting the flow of credit, financial instability, in turn, becomes a threat to economic performance.

The information that is necessary for the efficient functioning of the financial system is by its nature asymmetric: Often, one party to a financial contract (typically the lender) has much less accurate information about the outcome of an investment than does the other party (typically the borrower). As I have explained in more detail in a recent speech, such asymmetry leads to two prominent difficulties for the functioning of the financial system: adverse selection and moral hazard.

Adverse selection arises when investments that are most likely to produce an undesirable (*adverse*) outcome are the most likely to be financed (*selected*). For example, investors who intend to take on large amounts of risk are the most likely to be willing to seek out loans because they know that they are unlikely to pay them back. Moral hazard arises because a borrower has incentives to invest in high-risk projects, in which the borrower does well if the project succeeds but the lender bears most of the loss if the project fails.

Historically, banking institutions and other financial intermediaries have played a major role in reducing the asymmetry of information because they are well placed to collect information from borrowers and to engage in long-term relationships with clients. In more recent times, improved transparency and financial innovation – in the form of new financial products as well as new types of institutions that have become active in markets – have also contributed to the efficient flow of information across the system. The continuity of this flow helps keep adverse selection and moral hazard in check and is crucial to the process of *price discovery* – that is, the ability of markets to collect information and properly evaluate the worth of financial assets.

During periods of financial distress, information flows may be disrupted, and price discovery may be impaired. The high risk spreads and reluctance to purchase assets that are characteristic of such episodes are natural responses to the increased uncertainty resulting from the disruption of information Two types of risks are particularly important for understanding financial instability. The first is what I will refer to as valuation risk: The market, realizing the complexity of a security or the opaqueness of its underlying creditworthiness, finds it has trouble assessing the value of the security. For example, this sort of risk has been central to the repricing of many structured-credit products during the turmoil of the past few months, when investors have struggled to understand how potential losses in subprime mortgages might filter through the layers of complexity that such products entail.

The second type of risk that I consider central to the understanding of financial stability is what I call *macroeconomic risk* – that is, an increase in the probability that a financial disruption will cause significant deterioration in the real economy. Because economic downturns typically result in even greater uncertainty about asset values, such episodes may involve an adverse feedback loop whereby financial disruptions cause investment and consumer spending to decline, which, in turn, causes economic activity to contract. Such contraction then increases uncertainty about the value of assets, and, as a result, the financial disruption worsens. In turn, this development causes economic activity to contract further in a perverse cycle.

Deterioration of balance sheets during a recession can also intensify problems of adverse selection and moral hazard because it removes an important channel through which information asymmetries are mitigated – the use of collateral. If a borrower defaults on a loan backed by collateral, the effects of the adverse selection problem are less severe because the lender can take title to the collateral and thus make up for the loss. In addition, the threat of losing the collateral gives the borrower more incentives not to take unmanageable risks that might ultimately lead to a default, and it thus reduces the moral hazard problem. These mechanisms work only as long as the collateral is of sufficient quality; during macroeconomic downturns, the value of collateral may fall, problems of adverse selection and moral hazard again become central, and lenders become much less willing to lend. Again, these events can result in an adverse feedback loop.

Shocks of various natures can interfere with the information flow in financial markets and thereby precipitate financial instability through valuation and macroeconomic risk. Historical examples of such shocks include higher interest rates, problems in the banking sector, increases in uncertainty, and asset market effects on balance sheets. Of those, the last two appear to have been especially prominent in the ongoing episode of financial instability.

Interpreting the Recent Episode of Financial Instability: One could argue that the valuation of financial products backed by mortgages and corporate loans has always been uncertain, as the ability of borrowers to repay their debt ultimately depends on the performance of the economy. Yet, especially in very recent years, investors appeared to be less concerned about macroeconomic uncertainty or about the attendant problems of adverse selection and moral hazard inherent in asset-backed products. Thus, abundant credit flowed cheaply to borrowers regardless of the risks involved.

However, beginning in the spring and continuing to the present time, a considerable amount of uncertainty has surrounded markets' valuations of many structured-finance products – part of the flurry of innovative financial instruments that have become popular among market participants in recent years. Generally, increased uncertainty in financial markets makes it harder for lenders to screen good credit risks from bad and ultimately makes information more asymmetric, thereby possibly exacerbating the adverse selection problem. Consequently, lenders may become less willing to lend, and that reluctance may lead to a decline in investment and aggregate activity. During the recent turmoil, the opaqueness of structured-credit products contributed to market uncertainty until investors in those products (who were ultimately lenders to households and corporations) withdrew from the market and left borrowers without an important source of credit.

In the housing market, where price appreciation has slowed or even turned to depreciation in many areas, delinquencies and defaults have risen of late, especially in the variable-rate subprime sector. In addition, the decline in house prices has induced a clear deterioration in the collateral behind home mortgages. As a consequence, lenders have responded by tightening standards and terms and, ultimately, by reducing credit.

Similarly, the collateral offered by many financial institutions to back the borrowing they needed to finance their operations also became questionable. As a result, these institutions found credit much more difficult to obtain, or much more costly, or both. Funding difficulties for financial institutions clearly have the potential to turn into tighter credit conditions for households and nonfinancial businesses alike.

The Role of the Federal Reserve: Against this backdrop, what role should the Federal Reserve perform to pursue its objectives? To answer this question, we must first understand exactly what those objectives are. The Federal Reserve was created by the Congress in 1913 to provide an effective backstop against the recurring episodes of financial panic that were relatively frequent at the time. Even so, the interest of the Congress was not financial stability per se. Rather, the Congress was concerned that financial panics were often followed by sharp contractions in economic activity, and it recognized that a stabilization of the financial system would lead to a stabilization of the whole U.S. economy.

Originally, the preamble to the Federal Reserve Act of 1913 stated that the Federal Reserve System was created "to furnish an elastic currency, to afford means of rediscounting commercial paper, to establish a more effective supervision of banking in the United States, and for other purposes." Later, in 1977, the Congress amended the act to introduce macroeconomic objectives explicitly. Accordingly, it stated that "the Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates." Because long-term interest rates can remain low only in a stable macroeconomic environment, these goals are often referred to as the dual mandate – that is, the Federal Reserve seeks to promote the two coequal objectives of maximum employment and price stability. But although the main interests of the Federal Reserve are macroeconomic in nature, well-functioning financial markets are ancillary to good economic performance. Conversely, financial instability can compromise economic growth and price stability. Because of this intimate connection with economic performance, the Federal Reserve has a clear interest in promoting the stability of financial markets.

The Federal Reserve has various tools at its disposal to promote financial stability. In a speech two weeks ago, I discussed its role as a liquidity provider. Today, I will instead focus on how monetary policy can be used as an effective instrument to keep markets stable and to counter the macroeconomic effects of a system that has become unstable.

As a general principle, a sound monetary policy is one that will foster the objectives of price stability and maximum sustainable employment. Such a policy can make financial instability less likely. In my view, the reason that this is so resides once again in the informational asymmetries that pervade our financial system. For example, in an economy that experiences severe swings in output growth, lenders will be more reluctant to lend and will demand higher interest rates because of the higher risks that borrowers will default. But this situation is likely to exacerbate the adverse selection problem, as only riskier borrowers will be willing to take out loans at higher interest rates. Similarly, in an environment of high inflation, lenders will not be willing to lend for long periods. Debt contracts will then tend to have short maturities, thereby increasing the system's exposure to cash flow and liquidity problems.

Financial instability, however, can arise even if macroeconomic fundamentals are good and monetary policy is sound, simply because of shocks that are unforeseen by policymakers or that cannot be prevented from occurring. In this case, monetary policy can also be useful because it can help forestall the negative macroeconomic consequences of financial instability. An easier monetary policy provides a direct stimulus to the economy, as it generally leads to lower interest rates across the term structure. Lower rates reduce the cost of capital for borrowers and therefore encourage investment. They also generally boost asset prices, thereby increasing wealth and encouraging consumer spending.

Researchers have also identified other channels through which monetary policy is effective. One important one is the credit channel. The credit-channel view holds that monetary policy has additional effects because interest rate decisions influence the cost and availability of credit by more than would be implied by the associated movement in risk-free interest rates (Bernanke and Gertler, 1995; Bernanke, 2007a).For example, an easier monetary policy strengthens the balance sheets of borrowers. This stronger financial position, in turn, enables the borrower to reduce its potential conflict of interest with the lender, either because the borrower is able to self-finance a greater share of its investment projects, or because it can offer more or better collateral to guarantee its liabilities. As a result, firms and households will find it easier to increase their spending.

In addition to having beneficial macroeconomic effects, monetary policy can also help directly restore stability in financial markets after a period of financial instability. As we have seen, financial instability can basically be viewed as a disruption of information; therefore, its resolution requires a restoration of information flows. Monetary policy can contribute to this process by minimizing market uncertainty.

I noted a moment ago that periods of financial instability are characterized by valuation risk and macroeconomic risk. Monetary policy cannot have much influence on the former, but it can certainly address the latter – macroeconomic risk. By cutting interest rates to offset the negative effects of financial turmoil on aggregate economic activity, monetary policy can reduce the likelihood that a financial disruption might set off an adverse feedback loop. The resulting reduction in uncertainty can then make it easier for the markets to collect the information that enables price discovery and to hasten the return to normal market functioning.

To achieve this result most effectively, monetary policy needs to be timely, decisive, and flexible. Quick action is important for a central bank once it realizes that an episode of financial instability has the potential to set off a perverse sequence of events that pose a threat to its core objectives. Waiting too long to ease policy in such a situation would only risk a further deterioration in macroeconomic conditions and thus would arguably only increase the amount of easing that would eventually be needed.

Decisive action is also important. In circumstances when the risk of particularly bad economic outcomes is very real, a central bank may want to buy some insurance and, so to speak, "get ahead of the curve" – that is, ease policy more than it otherwise would have simply on the basis of its modal economic outlook. However, because monetary policy makers can never be certain of the amount of policy easing that is needed to forestall the adverse effects of disruptions in financial markets, decisive policy actions may, from time to time, go too far and thus produce unwelcome inflationary pressures. That's why I said that flexibility is also an important characteristic of monetary policy during a time of financial turmoil. If, in their quest to reduce macroeconomic risk, policymakers overshoot and ease policy too much, they need to be willing to expeditiously remove at least part of that ease before inflationary pressures become a threat.

Some may see a monetary policy that actively addresses episodes of financial instability along the lines that I have just described as promoting excessive risk-taking and thus increasing the probability of future crises. In other words, such a policy might appear to create some moral hazard problems of its own. I question, however, the validity of this view. As I pointed out earlier, the Federal Reserve has a mandate from the Congress to promote maximum employment and stable prices, and it will choose its monetary policy actions so as to best meet that mandate. That said, as pointed out recently by Chairman Bernanke, it is not the responsibility of the Federal Reserve – nor would it be appropriate – to protect lenders and investors from the consequences of their financial decisions (Bernanke, 2007b). Indeed, the Federal Reserve can hardly insulate investors from risk, even if it wished to do so. And the fact that investors who misjudged the risks they were taking lost money over the past few months as well as during most other episodes of financial turmoil, independently of the monetary policy actions taken by the Federal Reserve, certainly corroborates this argument. The point is that, although the Federal Reserve can and should offset macroeconomic risk with monetary policy decisions, investors remain responsible for dealing with valuation risk. Indeed, monetary policy is and should be powerless in that respect. It is solely the responsibility of market participants to do the hard work of price discovery and to ascertain and manage the risks involved in their investments.

The Federal Reserve's Recent Monetary Policy Decisions: What I just said should serve as a framework for understanding the recent decisions of the Federal Reserve to ease policy, first by 50 basis points on September 18 and then by another 25 basis points last week. The first action was larger than markets expected at the time – indeed, quotes from the federal funds futures market as well as survey data indicated that most investors had anticipated a cut of only 25 basis points in the target federal funds rate ahead of that meeting. As reported in the minutes, the Federal Open Market Committee (FOMC) judged that a policy easing of 50 basis points was appropriate to help offset the effects of tighter financial conditions on the economic outlook. Had the FOMC not eased policy, it would have faced a risk that the tightening of credit conditions and an intensifying housing correction would lead to significant broader weakness in output and employment. In addition, it would have faced the possibility that the impaired functioning of financial markets would persist for some time or worsen, which would create an adverse feedback loop not dissimilar to what I earlier called macroeconomic risk. The cut of 50 basis points at that meeting was the most prudent action from a macroeconomic standpoint, even given the Federal Reserve's objective of price stability. Indeed, with economic growth likely to run below its potential for a while and with incoming inflation data to the favorable side, the easing of policy, even if substantial, seemed unlikely to affect adversely the outlook for inflation.

It should be clear at this point that the FOMC's decision was made purely on macroeconomic grounds – that is, policy was eased solely to offset macroeconomic risk. The changed policy stance would not have interfered with the ongoing adjustments in the pricing of financial instruments – that is, the policy action, even if larger than investors had expected, would not have had any effects on valuation risk.

The response of the markets to the easing of monetary policy in September was encouraging. Financial market functioning improved after the decision was announced, an outcome that partially allayed the risks of a coming credit crunch and thus suggested that macroeconomic risk may have been reduced. Still, conditions in several markets remained strained. In part, those tensions certainly reflected the fact that valuation risk was still substantial and would not be reduced quickly. Indeed, the process of price discovery is ongoing, and it will likely be some time before it is completed.

At the FOMC meeting last week, the federal funds rate target was lowered by another 25 basis points. Our economy grew at a solid pace in the third quarter and was boosted importantly by personal consumption and business expenditures, an indication of considerable underlying strength in spending before the recent financial turbulence. However, the pace of economic expansion is expected to slow in the near term, largely because of the intensification of the housing correction. The combined 75 basis points of policy easing put in place at the past two meetings should help forestall some of the adverse effects on the broader economy that might otherwise arise from the disruptions in financial markets and should help promote moderate growth over time.

Going into the meeting, I was comforted by the lack of direct evidence to-date of serious spillovers of the housing weakness and of tighter credit conditions on the broader economy. But with an unchanged policy interest rate, I saw downside risks to the outlook for growth. I was mindful, in particular, of the risk that still-fragile financial markets could be particularly exposed to potential adverse news on the housing situation, or on the macroeconomy more generally, and that renewed strains in financial markets could feed back adversely on economic performance. My vote to ease policy at the meeting was motivated by my wish to reduce those risks. The FOMC perhaps could have waited for more clarity and left policy unchanged last week, but I believe that the potential costs of inaction outweighed the benefits, especially because, should the easing eventually appear to have been unnecessary, it could be removed.

In voting to ease policy, I carefully considered the effect of that decision on our other objective – price stability. I reasoned that the anticipated softening of economic growth and perhaps the emergence of some slack in the labor market might reduce those pressures, and I judged that a cut of 25 basis points in the target federal funds rate would not materially alter that modal outlook. However, I recognized the risk that, even if readings on core inflation have improved modestly this year, recent increases in energy and commodity prices, among other factors, may put renewed upward pressure on inflation. Consequently, in considering appropriate future adjustments to policy, I will monitor inflation developments carefully.

Overall, I think that the cumulative policy easing the FOMC put in place at its past two meetings reduced significantly the downside risks to growth so that those risks are now balanced by the upside risks to inflation. In these circumstances, I will want to carefully assess incoming data and gauge the effects of financial and other developments on economic prospects before considering further policy action. As always, my colleagues on the FOMC and I will act to foster our dual objectives of price stability and sustainable economic growth.

Conclusions

As I have argued here, under the mandate it has been given by the Congress, the Federal Reserve has a responsibility to take monetary policy actions to minimize the damage that financial instability can do to the economy. I hope I was clear in communicating to you that policies to achieve this goal are designed to help Main Street and not to bail out Wall Street. Pursuing such policies does help financial markets recover from episodes of financial instability, and so it can help lift asset prices. But this does not mean that market participants who have been overly optimistic about their assessment of risk don't pay a high price for their mistakes. They have, and that is exactly what should happen in a well-functioning economy – which, after all, is what the Federal Reserve is seeking to promote.

EBSA: Testimony before House Ways and Means Committee on 401(k) Fee Disclosure

Background

On October 30, 2007, Bradford P. Campbell, Assistant Secretary of Labor for employee benefits security, testified before the U.S. House of Representatives Ways and Means Committee in support of improved disclosure of 401(k) fees and expenses.

Campbell's testimony focused on the Labor Department's three regulatory initiatives for expanding disclosure requirements to provide participants, plan fiduciaries and the public with better information about plan fees and expenses. His testimony described the department's significant progress to date in the regulatory arena and highlighted its enforcement activities, which have resulted in more than $64 million in monetary results from 401(k) investigations.

Campbell told the committee that the Labor Department has the authority under current law to require additional disclosure. Campbell said that the department expects to issue final regulations addressing disclosures to the public, and will be proposing within several months regulations addressing specific and comprehensive disclosures to plan fiduciaries by service providers. Furthermore, the department expects to issue a proposed regulation requiring disclosure by plans to participants this winter. Below are comments from his testimony.

Information

Introductory Remarks: Good morning Chairman Rangel, Ranking Member McCrery, and Members of the Committee. Thank you for inviting me to discuss plan fees, the Department of Labor's role in overseeing plan fees, and proposals to increase transparency and disclosure of plan fee and expense information. I am Bradford Campbell, the Assistant Secretary of Labor for the Employee Benefits Security Administration (EBSA). I am proud to be here today representing the Department of Labor and EBSA. Our mission is to protect the security of retirement, health and other employee benefits for America's workers, retirees and their families, and to support the growth of our private benefits system.

Ensuring the security of retirement benefits is a core mission of EBSA, and one of this Administration's highest priorities. Excessive fees can undermine retirement security by reducing the accumulation of assets. It is therefore critical that plan participants directing the investment of their contributions, and plan fiduciaries charged with the responsibility of prudently selecting service providers and paying only reasonable fees and expenses, have the information they need to make appropriate decisions.

That is why the Department began a series of regulatory initiatives in 2006 to expand disclosure requirements in three distinct areas:

- Disclosures by plans to participants to assist in making investment decisions;
- Disclosures by service providers to plan fiduciaries to assist in assessing the reasonableness of provider compensation and potential conflicts of interest; and
- More efficient, expanded fee and compensation disclosures to the government and the public through a substantially revised, electronically filed Form 5500 Annual Report.

Each of these projects addresses different disclosure needs, and our regulations will be tailored to ensure that appropriate disclosures are made in a cost effective manner. For example, participants are unlikely to find useful extensive disclosure documents written in "legalese"—instead, it appears from comments we received thus far that participants want concise and readily understandable comparative information about plan costs and their investment options. By contrast, plan fiduciaries want detailed disclosures in order to properly carry out their duties under the law, enabling them to understand the nature of the services being provided, all fees and expenses received for the services, any conflicts of interest on the part of the service provider, and any indirect compensation providers may receive in connection with the plan's business.

REGULATORY UPDATE

We have made significant progress on these projects. We will be issuing a final regulation requiring additional public disclosure of fee and expense information on the Form 5500 within the next few weeks. In the next several months we will publish a proposed regulation requiring specific and comprehensive disclosures to plan fiduciaries by service providers. We also concluded a Request for Information seeking the views of the interested public on issues surrounding disclosures to participants. We are currently evaluating the comments received from consumer groups, plan sponsors, service providers and others as we develop a proposed regulation.

The Employee Retirement Income Security Act of 1974 (ERISA) provides the Secretary with broad regulatory authority, enabling the Department to pursue these comprehensive disclosure initiatives without need for a statutory amendment. The regulatory process currently underway ensures that all voices and points of view will be heard and provides an effective means of resolving the many complex and technical issues presented. I hope that as Congress considers this issue, it recognizes the Department's existing statutory authority and takes no action that could disrupt our current efforts to provide these important disclosures to workers. My testimony today will discuss in more detail the Department's activities related to plan fees. Also, I will describe the Department's regulatory and enforcement initiatives focused on improving the transparency of fee and expense information for both plan fiduciaries and participants.

Overview: EBSA is responsible for administering and enforcing the fiduciary, reporting, and disclosure provisions of Title I of ERISA. EBSA oversees approximately 683,000 private pension plans, including 419,000 participant-directed individual account plans such as 401(k) plans, and millions of private health and welfare plans that are subject to ERISA. Participant-directed individual account plans under our jurisdiction hold over $2.2 trillion in assets and cover more than 44.4 million active participants. Since 401(k)-type plans began to proliferate in the early 1980s, the number of employees investing through these types of plans has grown dramatically. The number of active participants has risen almost 500 percent since 1984 and has increased by 11.4 percent since 2000.

EBSA employs a comprehensive, integrated approach encompassing programs for enforcement, compliance assistance, interpretive guidance, legislation, and research to protect and advance the retirement security of our nation's workers and retirees.

Title I of ERISA establishes standards of fiduciary conduct for persons who are responsible for the administration and management of benefit plans. It also establishes standards for the reporting of plan related financial and benefit information to the Department, the IRS and the PBGC, and the disclosure of essential plan related information to participants and beneficiaries.

The Fiduciary's Role: ERISA requires plan fiduciaries to discharge their duties solely in the interest of plan participants and beneficiaries, and for the exclusive purpose of providing benefits and defraying reasonable expenses of plan administration. In discharging their duties, fiduciaries must act prudently and in accordance with the documents governing the plan. If a fiduciary's conduct fails to meet ERISA's standards, the fiduciary is personally liable for plan losses attributable to such failure.

ERISA protects participants and beneficiaries, as well as plan sponsors, by holding plan fiduciaries accountable for prudently selecting plan investments and service providers. In carrying out this responsibility, plan fiduciaries must take into account relevant information relating to the plan, the investments available under the plan, and the service provider, and are specifically obligated to consider fees and expenses.

ERISA prohibits the payment of fees to service providers unless the services are necessary and provided pursuant to a reasonable contract, and the plan pays no more than reasonable compensation. Thus, plan fiduciaries must ensure that fees paid to service providers and other expenses of the plan are reasonable in light of the level and quality of services provided. Plan fiduciaries must also be able to assess whether revenue sharing or other indirect compensation arrangements create conflicts of interest on the part of the service provider that might affect the quality of the services to be performed. These responsibilities are ongoing. After initially selecting service providers and investments for their plans, fiduciaries are required to monitor plan fees and expenses to determine whether they continue to be reasonable and whether there are conflicts of interest.

EBSA's Compliance Assistance Activities: EBSA assists plan fiduciaries and others in understanding their obligations under ERISA, including the importance of understanding service provider fees and relationships, by providing interpretive guidance and making related materials available on its Web site. One such publication developed by EBSA is *Understanding Retirement Plan Fees and Expenses*, which provides general information about plan fees and expenses. In conjunction with the Securities and Exchange Commission, we also developed a fact sheet, "Selecting and Monitoring Pension Consultants – Tips for Plan Fiduciaries." This fact sheet contains a set of questions to assist plan fiduciaries in evaluating the objectivity of pension consultant recommendations.

EBSA also has made available on its Web site a model "401(k) Plan Fee Disclosure Form" to assist fiduciaries of individual account pension plans when analyzing and comparing the costs associated with selecting service providers and investment products. This form is the product of a coordinated effort of the American Bankers Association, Investment Company Institute, and the American Council of Life Insurers.

To help educate plan sponsors and fiduciaries about their obligations under ERISA, EBSA conducts numerous educational and outreach activities. Our campaign, "Getting It Right – Know Your Fiduciary Responsibilities," includes nationwide educational seminars to help plan sponsors understand the law. The program focuses on fiduciary obligations, especially related to the importance of selecting plan service providers and the role of fee and compensation considerations in that selection process. EBSA has conducted 21 fiduciary education programs since May 2004 in different cities throughout the United States. EBSA also has conducted 49 health benefits education seminars, covering nearly every state, since 2001. Beginning in February 2005, these seminars added a focus on fiduciary responsibilities. EBSA will continue to provide seminars in additional locations under each program.

Disclosures to Participants Under the Current Law: ERISA currently provides for a number of disclosures aimed at providing participants and beneficiaries information about their plans' investments. For example, information is provided to participants through summary plan descriptions and summary annual reports. Under the Pension Protection Act of 2006, plan administrators are required to automatically furnish pension benefit statements to plan participants and beneficiaries. The Department issued Field Assistance Bulletins in December 2006 and in October 2007 to provide initial guidance on complying with the new statutory requirements. Statements must be furnished at least once each quarter, in the case of individual account plans that permit participants to direct their investments, and at least once each year, in the case of individual account plans that do not permit participants to direct their investments. Other disclosures, such as copies of the plan documents, are available to participants on request.

Additional disclosures may be required by the Department's rules concerning whether a participant has "exercised control" over his or her account. ERISA section 404(c) provides that plan fiduciaries are not liable for investment losses which result from the participant's exercise of control. A number of conditions must be satisfied, including that specified information concerning plan investments must be provided to plan participants. Information fundamental to participants' investment decisions must be furnished automatically. Additional information must be provided on request.

EBSA Participant Education and Outreach Activities: EBSA is committed to assisting plan participants and beneficiaries in understanding the importance of plan fees and expenses and the effect of those fees and expenses on retirement savings. EBSA has developed educational brochures and materials available for distribution and through our Web site. EBSA's brochure entitled *A Look at 401(k) Plan Fees for Employees* is targeted to participants and beneficiaries of 401(k) plans who are responsible for directing their own investments. The brochure answers frequently asked questions about fees and highlights the most common fees, and is designed to encourage participants to make informed investment decisions and to consider fees as a factor in decision making. Last fiscal year, EBSA distributed over 5,400 copies of this brochure, and over 46,000 visitors viewed the brochure on our Web site.

More general information is provided in the publications, *What You Should Know about Your Retirement Plan* and *Taking the Mystery out of Retirement Planning*. In the same period, EBSA distributed over 86,000 copies of these two brochures, and almost 102,000 visitors viewed these materials on our Web site. EBSA's *Study of 401(k) Plan Fees and Expenses,* which describes differences in fee structures faced by plan sponsors when they purchase services from outside providers, is also available.

Regulatory Initiatives: EBSA currently is pursuing three initiatives to improve the transparency of fee and expense information to participants, plan sponsors and fiduciaries, government agencies and the public. We began these initiatives, in part, to address concerns that participants are not receiving information in a format useful to them in making investment decisions, and that plan fiduciaries are having difficulty getting needed fee and compensation arrangement information from service providers to fully satisfy their fiduciary duties. The needs of participants and plan fiduciaries are changing as the financial services industry evolves, offering an increasingly complex array of products and services.

Disclosures to Participants - EBSA currently is developing a proposed regulation addressing required disclosures to participants in participant-directed individual account plans. This regulation will ensure that participants have concise, readily understandable information they can use to make informed decisions about the investment and management of their retirement accounts. Special care must be taken to ensure that the benefits to participants and beneficiaries of any new requirement outweigh the compliance costs, given that any such costs are likely to be charged against the individual accounts of participants.

On April 25, 2007, the Department published a Request for Information to gather data to develop the proposed regulation. The Request for Information invited suggestions from plan participants, plan sponsors, plan service providers, consumer advocates and others for improving the current disclosures applicable to participant-directed individual account plans and requested analyses of the benefits and costs of implementing such suggestions. The Department specifically invited comment on the recommendation of the Government Accountability Office that plans be required to provide a summary of all fees that are paid out of plan assets or directly by participants, as well as other possible approaches to improving the disclosure of plan fee and expense information.

In connection with this initiative, EBSA is also working with the Securities and Exchange Commission to develop a framework for disclosure of information about fees charged by financial service providers, such as mutual funds, that would be more easily understood by participants and beneficiaries. Improved mutual fund disclosure would assist plan participants and beneficiaries because a large proportion of 401(k) plan assets are invested in mutual fund shares. We are working closely with the SEC to ensure that the disclosure requirements under our respective laws are complementary.

We are hopeful that improved fee disclosure will assist plan participants and beneficiaries in making more informed decisions about their investments. Better disclosure could also lead to enhanced competition between financial service providers which could lead to lower fees and enhanced services.

Disclosures to Plan Fiduciaries - EBSA will soon be issuing a proposed regulation amending its current regulation under ERISA section 408(b)(2) to clarify the information fiduciaries must receive and service providers must disclose for purposes of determining whether a contract or arrangement is "reasonable," as required by ERISA's statutory exemption for service arrangements. Our intent is to ensure that service providers entering into or renewing contracts with plans disclose to plan fiduciaries comprehensive and accurate information concerning the providers' receipt of direct and indirect compensation or fees and the potential for conflicts of interest that may affect the provider's performance of services. The information provided must be sufficient for fiduciaries to make informed decisions about the services that will be provided, the costs of those services, and potential conflicts of interest. The Department believes that such disclosures are critical to ensuring that contracts and arrangements are "reasonable" within the meaning of the statute. This proposed regulation currently is under review within the Administration.

Disclosures to the Public - EBSA will soon promulgate a final regulation revising the Form 5500 Annual Report filed with the Department to complement the information obtained by plan fiduciaries as part of the service provider selection or renewal process. The Form 5500 is a joint report for the Department of Labor, Internal Revenue Service and Pension Benefit Guaranty Corporation that includes information about the plan's operation, funding, assets, and investments. The Department collects information on service provider fees through the Form 5500 Schedule C.

Consistent with recommendations of the ERISA Advisory Council Working Group, the Department published, for public comment, a number of changes to the Form 5500, including changes that would expand the service provider information required to be reported on the Schedule C. The proposed changes more specifically define the information that must be reported concerning the "indirect" compensation service providers received from parties other than the plan or plan sponsor, including revenue sharing arrangements among service providers to plans. The proposed changes to the Schedule C were designed to assist plan fiduciaries in monitoring the reasonableness of compensation service providers receive for services and potential conflicts of interest that might affect the quality of those services. EBSA has completed its review of public comments on the proposed Schedule C and other changes to the Form 5500 and expects to have a final regulation and a notice of form revisions published within the next few weeks.

We intend that the changes to the Schedule C will work in tandem with our 408(b)(2) initiative. The amendment to our 408(b)(2) regulation will provide up front disclosures to plan fiduciaries, and the Schedule C revisions will reinforce the plan fiduciary's obligation to understand and monitor these fee disclosures. The Schedule C will remain a requirement for plans with 100 or more participants, which is consistent with long-standing Congressional direction to simplify reporting requirements for small plans.

EBSA's Enforcement Efforts: EBSA has devoted enforcement resources to this area, seeking to detect, correct and deter violations such as excessive fees and expenses, and failure by fiduciaries to monitor on-going fee structure arrangements. Over the past nine years, we closed 354 401(k) investigations involving these issues, with monetary results of over $64 million.

In carrying out its enforcement responsibilities, EBSA conducts civil and criminal investigations to determine whether the provisions of ERISA or other federal laws related to employee benefit plans have been violated. EBSA regularly works in coordination with other federal and state enforcement agencies, including the Department's Office of the Inspector General, the Internal Revenue Service, the Department of Justice (including the Federal Bureau of Investigation), the Securities and Exchange Commission, the PBGC, the federal banking agencies, state insurance commissioners, and state attorneys general.

EBSA is continuing to focus enforcement efforts on compensation arrangements between pension plan sponsors and service providers hired to assist in the investment of plan assets. EBSA's Consultant/Adviser Project (CAP), created in October 2006, addresses conflicts of interest and the receipt of indirect, undisclosed compensation by pension consultants and other investment advisers. Our investigations seek to determine whether the receipt of such compensation violates ERISA because the adviser or consultant used its status with respect to a benefit plan to generate additional fees for itself or its affiliates. The primary focus of CAP is on the potential civil and criminal violations arising from the receipt of indirect, undisclosed compensation. A related objective is to determine whether plan sponsors and fiduciaries understand the compensation and fee arrangements they enter into in order to prudently select, retain, and monitor pension consultants and investment advisers. CAP will also seek to identify potential criminal violations, such as kickbacks or fraud.

Concerns Regarding Legislative Proposals: While I am pleased that the Department's regulatory initiatives and the legislative proposals introduced in Congress share the common goal of providing increased transparency of fee and expense information, I am concerned that legislative action could disrupt the Department's ongoing efforts to provide these important disclosures. I am also concerned by proposals that would mandate specific investment options – limiting the ability of employers and workers together to design plans that best serve their mutual needs – or that would mandate lengthy, detailed disclosures to participants. Participants are most likely to benefit from concise disclosures that allow them to meaningfully compare the investment options in their plans. In response to our April Request for Information, the Department received many comments highlighting the importance of brevity and relevance in disclosures to participants. The regulatory process is well-suited to resolving the many technical issues arising as we seek to strike the proper balance in providing participants with cost effective, concise, meaningful information.

Conclusion

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify before you today. The Department is committed to ensuring that plans and participants pay fair, competitive and transparent prices for services that benefit them – and to combating instances where fees are excessive or hidden. We are moving as quickly as possible consistent with the requirements of the regulatory process to complete our disclosure initiatives, and we believe they will improve the retirement security of America's workers, retirees and their families. I will be pleased to answer any questions you may have.

OTS: Personal Transactions in Securities – Final Rule

Background

In June 2007, the Office of Thrift Supervision (OTS) adopted an interim final rule (Interim Rule) that requires certain officers and employees of savings associations to file reports of their personal securities transactions with the savings association no later than thirty calendar days after the end of each calendar quarter. Before OTS adopted the Interim Rule, persons subject to the rule were required to file such reports within ten business days after the end of each calendar quarter. The thirty-calendar-day period is consistent with the filing requirement for persons in similar positions at investment companies who file such reports under regulations of the Securities and Exchange Commission (SEC). The OTS is adopting a final rule that is identical to the Interim Rule and the effective date is November 7, 2007.

Information

On June 1, 2007, OTS published the Interim Rule. The preamble to the Interim Rule included a request for public comment. The Interim Rule amended 12 CFR 551.150(a) by changing the time period required for officers and employees who are subject to the rule to file personal securities trading reports with the savings association. Before OTS adopted the Interim Rule, the affected officers and employees had been required to file such reports with the savings association within ten business days of the end of each calendar quarter. The Interim Rule changed the ten business day period to no later than thirty calendar days.

OTS received two comments, from a trade association and a savings and loan holding company, regarding the Interim Rule. Both of the comments strongly support the Interim Rule. The commenters believe that it is appropriate for the time period provided for submitting reports under section 551.150(a) to be consistent with analogous SEC requirements. In addition, the commenters support the rule because it reduces regulatory burden. Having considered the comments, OTS is adopting a final rule that is identical to the Interim Rule.

SEC: SEC and FINRA Launch New Initiative to Assist Chief Compliance Officers at Broker-Dealer Firms

Information

On October 30, 2007, the Securities and Exchange Commission and the Financial Industry Regulatory Authority (FINRA) today announced a new initiative to further promote strong compliance practices at broker-dealer firms for the protection of investors.

Similar to the SEC's ongoing *CCOutreach Program* for investment advisers and investment company chief compliance officers, the *CCOutreach BD* program will help broker-dealer chief compliance officers (CCOs) ensure effective communication about compliance risks, maintain effective compliance controls, and foster strong compliance programs within their firms.

“This is an opportunity for broker-dealers and their regulators to learn from one another about how best to ensure compliance with the securities laws,” said SEC Chairman Christopher Cox.

FINRA CEO Mary L. Schapiro said, “Through its education and training programs, FINRA devotes considerable resources to compliance education – not just for compliance officers, but for broker-dealers' frontline staff as well. This new CCOutreach program will provide a unique opportunity for compliance chiefs across the country to discuss priority topics directly with regulators – and they can participate in shaping the agenda for those discussions themselves.”

The SEC's Office of Compliance Inspections and Examinations, in coordination with the Division of Market Regulation, will sponsor the *CCOutreach BD* program together with FINRA. The program will feature a National Seminar at SEC headquarters in Washington, D.C., tentatively scheduled for March 2008, as well as regional compliance seminars across the country. These meetings will provide the opportunity for open discussions on effective compliance practices and timely compliance issues in ever-changing markets.

To ensure that the National Seminar includes the compliance topics of most interest to broker-dealer CCOs, the SEC and FINRA are soliciting input from CCOs on topics of interest. A list of potential agenda items for the National Seminar may be found on the SEC Web site at http://www.sec.gov/info/bdccoutreach.htm and on the FINRA Web site at www.finra.org/bdccoutreach. Detailed information about the National Seminar and regional seminars also will be posted on those Web pages as it becomes available.

First National of Nebraska, Inc.
Audit Manager, (Trust, Wealth Management, Investment Banking)
Omaha, NE

Invest Now for a Great Future!

Join First National of Nebraska, Inc.(FNNI) and secure your future with one of the area' s oldest, most respected financial institutions. Recently recognized as one of the “100 Best Companies for Working Mothers” (6 consecutive years) and by Fortune magazine as one of “America's Most Admired Companies,” our stability and growth provide a solid foundation for your career to reach new heights! First National is recruiting for the following opportunity:

The Trust & Investments Audit Manager is responsible for directing a designated team of four to five internal auditors in the performance of assigned audits. The Trust & Investments Audit Manager is responsible for assessing risks within assigned business units and developing an appropriate audit approach to address those risks.

Key accountabilities for this role:
1. Identify and evaluate risks within assigned FNNI business units and affiliates and assist Director of Internal Audit in developing the annual Audit Plan.
2. Plan and manage audits of assigned FNNI business units and affiliates in conformity with department standards.
3. Maintain good use of Managerial Practices in planning and managing the work of assigned staff.
4. Build a relationship with assigned audit clients and other audit managers such that business units and other audit teams will seek the Manager's counsel on newly identified or anticipated processes, programs, and development plans.

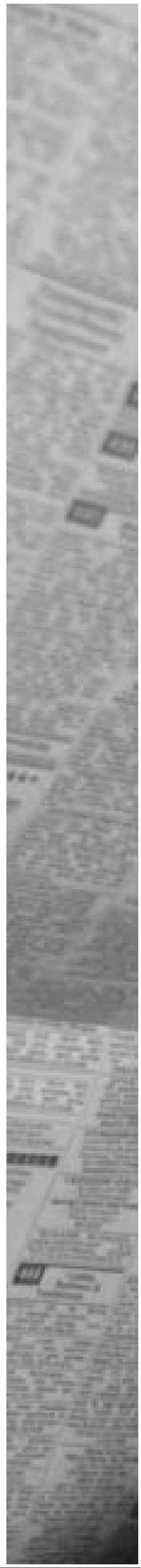
Required:
1. Minimum of a bachelor's degree in accounting, auditing, finance or banking with at least eight to ten years of public and/or internal audit experience.
2. At least three years of experience auditing the trust, broker/dealer and investment banking functions of financial institutions.
3. Either a CPA, CIA, CFIRS or CTA certification.
4. Strong administrative, oral and written communication skills.

Desirable:
1. Masters of Business Administration degree.

Celebrating our 150th anniversary, we offer great stability as well as compensation, benefits and relocation package.

Qualified applicants are encouraged to apply at www.firstnational.com and post to Requisition 27-1662.
EOE

JOB POSTING



Reliance Financial Corporation
Trust Audit Officer
Atlanta, Georgia

Reliance Financial Corporation has an immediate opening for a Trust Audit Officer. The individual will be responsible for assisting in the completion of the annual audit plan designed by the general auditor and approved by the Audit Committee.

Reliance Financial Corporation is a privately held Atlanta-based diversified financial services and wealth management company with more than $60 billion in assets under management and administration. Reliance conducts business throughout the United States through its trust company (the largest independent trust company in the country) and brokerage offices, investment advisory, corporate finance and research subsidiaries and insurance agency offices.

JOB RESPONSIBILITIES:

- Perform risk assessments of every function of the company.
- Perform audit procedures based on the results of the risk assessments.
- Draft formal reports outlining recommendations for operating and efficiency improvements.
- Assist in Fiduciary Examinations of certain alliance partners.
- Coordinate activities with the external accountants and the regulators during their examinations.
- Make presentations to and interact with executive management and members of the Board of Directors on a regular basis.
- Attend selected industry related schools and seminars.
- Be involved in high priority special projects directly related to the success of the company.
- Represent the Audit Division in the general auditor's absence.

QUALIFICATIONS:

- Bachelor's degree in accounting/ finance or a related business field.
- Three or more years of trust audit or trust compliance experience.
- A related professional certification, CPA, CIA, CIFRS, CTA, or the willingness and ability to obtain such certification.
- The ability to interact with all levels of management.
- The ability to set priorities and work independently.
- The ability to identify problems and provide solutions.
- The ability to sell ideas to management.
- The ability to think abstractly using quantitative and statistical concepts.
- Effective communication skills, both verbal and written.

Please submit your resume to humanresources@relico.com or by fax @ 404-965-7313

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JOB POSTING

INVESCO
Audit Manager
Boston

SUMMARY DESCRIPTION:

The Audit Manager will coordinate execution of the audit plan for their area of responsibility, as defined by the Regional Director. The Audit Manager will perform portions of the audit work, supervise and review work performed by any staff auditors or third party contractors and present audit results and recommendations to management. The Audit Manager is also responsible for providing objective assurance and consulting services by evaluating and improving the effectiveness of risk management control and governance processes and monitoring compliance with existing financial and operational controls.

PRIMARY DUTIES/RESPONSIBILITIES:

Coordinate analysis of risk in areas of assigned audit responsibility and prepare proposed internal audit plans based on the results of the risk analysis. Schedule planned audits and coordinate planning for specific audits with customers. Conduct planning and risk analysis for specific audits and prepare audit programs and approaches that meet the objectives of those audits. Perform audit work and supervise the performance of work by any assigned staff or contractors, including reviewing workpapers, documenting control weaknesses or inefficiencies and managing the completion of the audit within the given timeframe. Prepare audit results and conduct exit meetings to obtain management concurrence and responses. Prepare audit reports and clear those reports with audit customers prior to issuance. Keep Regional Director and departmental CAO informed of audit activities. Assist in training and development of team members by providing on the job coaching, delivering constructive and motivating feedback, and participation in the performance management process. Perform other duties and special projects as assigned by the Regional Director. Train, facilitate and consult with process owners to enable the business to manage their Governance, Risk and Compliance (GRC) responsibilities using BWise. Actively contribute to developing a culture of risk awareness throughout the organization.

FORMAL EDUCATION

(minimum requirement to perform job duties): Bachelors degree in Accounting or Finance preferred. Other business related degrees considered depending upon relevant experience. MBA a plus.

LICENSE/REGISTRATION/CERTIFICATION

(minimum): CPA, CA, CIA, CFIRS/CTA or CISA preferred.

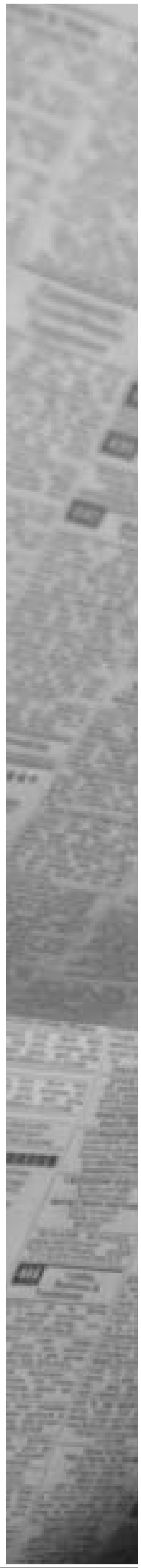
WORK EXPERIENCE:

REGULATION 9 AND TRUST EXPERIENCE ABSOLUTELY ESSENTIAL. NO CANDIDATES WILL BE CONSIDERED WITHOUT THIS EXPERIENCE CLEARLY EVIDENT. Minimum of 5 to 8 years of audit experience, including acting in the capacity of a supervisor. Combination of public accounting experience (prefer Big 4) and internal auditing experience preferred. Strongly prefer experience within the asset management, securities or banking industries. SKILLS: Excellent written and verbal communication skills. Self starter. Must be able to work without frequent direct supervision. Results-oriented. Comfortable as an individual contributor on certain assignments. Pro-active problem solver with the ability to thoroughly identify and investigate issues and determine the appropriate course of action. Work through contentious issues with customers in a non-confrontational style. Ability to handle confidential information and communicate clearly with individuals at a wide range of levels on sensitive matters. Excellent analytical skills. Excellent project management and administrative skills. Excellent supervisory, relationship management and team building skills. Demonstrated ability to work in a diverse, cross-functional and international environment. Comfortable with changing environment. Adaptable. Potential for domestic and international travel of 30%.

EOE

Please send resume along with salary requirements to NYHRResumes@Invesco.com

JOB POSTING



INVESCO
Audit Manager
New York

SUMMARY DESCRIPTION:

The Audit Manager will coordinate execution of the audit plan for their area of responsibility, as defined by the Regional Director. The Audit Manager will perform portions of the audit work, supervise and review work performed by any staff auditors or third party contractors and present audit results and recommendations to management. The Audit Manager is also responsible for providing objective assurance and consulting services by evaluating and improving the effectiveness of risk management control and governance processes and monitoring compliance with existing financial and operational controls.

PRIMARY DUTIES/RESPONSIBILITIES:

Coordinate analysis of risk in areas of assigned audit responsibility and prepare proposed internal audit plans based on the results of the risk analysis. Schedule planned audits and coordinate planning for specific audits with customers. Conduct planning and risk analysis for specific audits and prepare audit programs and approaches that meet the objectives of those audits. Perform audit work and supervise the performance of work by any assigned staff or contractors, including reviewing workpapers, documenting control weaknesses or inefficiencies and managing the completion of the audit within the given timeframe. Prepare audit results and conduct exit meetings to obtain management concurrence and responses. Prepare audit reports and clear those reports with audit customers prior to issuance. Keep Regional Director and departmental CAO informed of audit activities. Assist in training and development of team members by providing on the job coaching, delivering constructive and motivating feedback, and participation in the performance management process. Perform other duties and special projects as assigned by the Regional Director. Train, facilitate and consult with process owners to enable the business to manage their Governance, Risk and Compliance (GRC) responsibilities using BWise. Actively contribute to developing a culture of risk awareness throughout the organization.

FORMAL EDUCATION

(minimum requirement to perform job duties): Bachelors degree in Accounting or Finance preferred. Other business related degrees considered depending upon relevant experience. MBA a plus.

LICENSE/REGISTRATION/CERTIFICATION

(minimum): CPA, CA, CIA, CFIRS/CTA or CISA preferred.

WORK EXPERIENCE:

Minimum of 5 to 8 years of audit experience, including acting in the capacity of a supervisor. Combination of public accounting experience (prefer Big 4) and internal auditing experience preferred. Strongly prefer experience within the asset management, securities or banking industries. **SKILLS:** Excellent written and verbal communication skills. Self starter. Must be able to work without frequent direct supervision. Results-oriented. Comfortable as an individual contributor on certain assignments. Pro-active problem solver with the ability to thoroughly identify and investigate issues and determine the appropriate course of action. Work through contentious issues with customers in a non-confrontational style. Ability to handle confidential information and communicate clearly with individuals at a wide range of levels on sensitive matters. Excellent analytical skills. Excellent project management and administrative skills. Excellent supervisory, relationship management and team building skills. Demonstrated ability to work in a diverse, cross-functional and international environment. Comfortable with changing environment. Adaptable. Potential for domestic and international travel of 30%.

EOE

Please send resume along with salary requirements to NYHRResumes@Invesco.com

JOB POSTING

Westwood Trust
Vice President, Trust & Investments
Dallas, Texas

New Business Development

- Identify prospective clients
- Develop referral source network

Client Service

- Maintain ongoing relationship with clients

The candidate will be responsible for prospecting, acquiring new client relationships, and growing existing client relationships. The focus is to acquire new clients for Westwood Trust and increase assets under management from existing clients.

New Business Development:
Develop external referral sources/networks to prospect for new clients, screen to identify attractive opportunities, and lead meetings to close business. Work with team members to uncover opportunities to expand existing client relationships. Successfully present ideas/strategies/solutions to centers of influence, qualified prospects and existing clients. Obtain referrals from existing clients.

Client Service:
Provide on-going, timely information on client performance portfolio construction, asset allocation & topics of interest. Participate with team members to conduct meetings with clients. Target client relationships with higher revenue growth opportunity to build strategies for additional business and/or focuses on more complex, high revenue relationships to ensure client satisfaction and preservation of existing revenue. Serve as key resource/mentor and functional expert to team members.

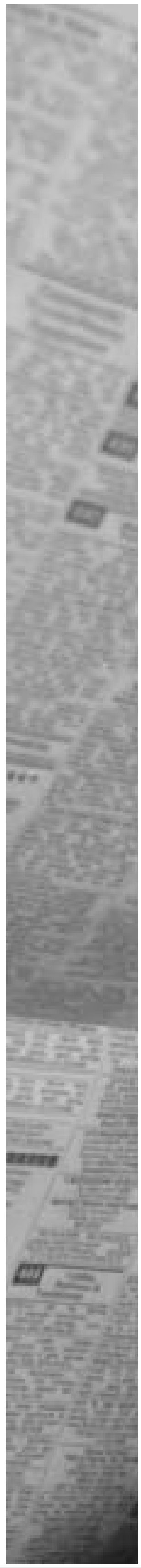
Education / Training:
BS/BA with emphasis in Business Administration, Finance or Economics strongly preferred. Advanced college degrees (i.e. MBA) preferred, Professional Certifications (i.e. CPA, CFP, CTFA, CFA) a plus.

Experience:
Ten or more years sales/client service experience in financial services industry.

Skills And Abilities:
Ability to generate leads, prospect for opportunities, network for introductions. Should possess highly effective personal presentation and problem solving skills as well as broad knowledge of financial markets and wealth management strategies. Should be highly ethical, enthusiastic self-starter with organized, disciplined, well planned sales process. Appropriate working knowledge of necessary technology and tools (e.g. Microsoft Office, CRM systems)

To apply, e-mail Nora Donnelly at ndonnelly@westwoodgroup.com and include a copy of your resume.

JOB POSTING



Unified Trust Company, N.A.
Vice President for Compliance and Fiduciary Review
Lexington, Kentucky

Unified Trust Company, N.A., a nationally chartered trust company specializing in retirement plans and personalized money management, is seeking qualified applicants for the Vice President for Compliance and Fiduciary Review

FUNCTION:

The Vice President for Compliance and Fiduciary Review (“VP-CFR”) is responsible for compliance of all laws, regulations, fiduciary best practices, fiduciary issues, ERISA regulations, advertising issues, and business relationships as they pertain to Unified Trust Company. Essentially they will oversee the “Five Factors” of compliance (business, fiduciary, ERISA, securities, and advertising)

The VP-CFR will advise the Board of Directors, Senior Management and Unified Trust personnel of emerging compliance issues. The VP-CFR will consult and guide Unified Trust in the establishment of controls to mitigate risks. They will ensure department activities run smoothly and efficiently by providing leadership, training and supervision. They will also serve as a conduit with corporate legal counsel to maintain proper contractual documents, and shall serve as the Unified Trust Company spokesperson with legal counsel when compliance issues arise.

EDUCATION AND EXPERIENCE REQUIREMENTS:

- Bachelor’s Degree required; Legal or accounting degree preferred.
- Financial services experience; trust/banking fiduciary environment experience industry preferred.
- Professional certification commonly accepted among compliance professionals. Certified Trust Auditor (CTA), Certified Trust Compliance Professional (CTCP) or Certified Fiduciary and Investment Risk Specialist (CFIRS) designations are preferred.
- Strong ability to work with Microsoft Word, Excel, and Outlook.
- Strong interpersonal, sales and relationship management skills.
- Strong written, verbal and presentation skills.

Please submit resume to angela.brown@unifiedtrust.com or by fax to 859-514-6174.

As a convenience to our membership, we have added the ASK FIRMA section which is a reproduction of questions and responses posted to the FIRMA Discussion Forum of the FIRMA website. The FIRMA Discussion Forum is a member benefit that allows FIRMA members to discreetly poll the industry members for practices. The questions and the responses are purely voluntary and are not absolute. FIRMA makes no assertions as to the accuracy of the responses. Names used in the Discussion Forum are pseudonyms selected by the member who posts and any similarity to actual member names is coincidental. Please consult with your own internal or external experts on topics as responses may vary dependent upon your organizational structure and its applicable laws and regulations.

Temporary Trust Fund

Question: The bank established a money market deposit fund strictly for temporary trust funds to sweep in and out of. The rate changes daily and is indexed to a national brokerage fund plus an additional few basis points. A question has come up as to whether this rate must be competitive with a national brokerage firm or could it be benchmarked against a regional or in-state bank or firm's rate? If this were done, in all likelihood this rate could be up to 50 basis points less than a national rate. Does your institution sweep to an in-bank fund and how is the rate established for this fund?

Response:

I would think that you would be subject to taking the broader average. You have the technology and access to higher yielding funds and as a fiduciary you have the obligation to make the property as productive as possible relative to client risk. My question would be, how could you defend the appearance of a conflict based on lower local rates? I suppose the argument could be made that the client on his/her own would only be shopping locally, however, the client hired a professional fiduciary which implies a higher standard of conduct and service availability.

In the past, I have created similar funds and in order to avoid any question of a conflict, the rate was pegged to a MMF that would suit the fiduciary standards of the institution. One difference, we pegged the rate based on a weekly average in arrears. It worked for us and it passed examiner scrutiny.

Editor's Note: *When investing in own-bank (proprietary) products you will always need to be able to defend the appearance of a conflict of interest. As long as your bank can defend the decision to use this as the short term investment vehicle for the client, you are able to invest in the proprietary product; documentation is essential. Make certain you document how your rate is calculated and compare it to other products easily available to the trust clients, i.e., bank savings rates; the rate of a comparable MMF commonly used by the trust department; the rate of the MMF the proprietary product is replacing, if applicable. Other potential issues to look out for: state disclosure rules, FDIC insurance limits, and collateral requirements.*

The Risk Intelligent CIO: Becoming a Front-Line IT Leader in a Risky World

By Dolores Atallo-Hazelgreen

This article is the first in a series of two taken from a publication in our series on Risk Intelligence. The issues outlined herein will serve as a starting point for the crucial dialog on raising your institution's Risk Intelligence while solidifying the important role of the chief information officer.

In a business world as fraught with new risks as it is entwined with new technology, Chief Information Officers (and those they report to) are increasingly aware that IT-related problems can come at a staggering cost to an organization's bottom line and reputation. At the same time, perceptive CIOs realize that simply managing technology risks – however effectively they do so – is insufficient. Rather, they understand the imperative to exploit technology to manage risk across the entire enterprise, not merely within the IT department.

With heightened sensitivities around the issue of risk management, CIOs and IT professionals face both challenges and opportunities: to improve their IT department's risk practices; to elevate their role from low-profile caretaker to high-value leader; and to harness the power of technology across the organization to attain a higher level of risk management, operational excellence, and competitive advantage.

Grandiose goals for the IT shop? Far from it. Prescient CIOs already realize that information technology has a critical role to play in corporate governance, risk management, and regulatory compliance efforts. And they know that any organization-wide initiative should be tightly aligned with IT projects, priorities, and processes. The current high-risk environment provides a unique transformational opportunity for IT leaders with the vision and ambition to grasp it.

The Anachronistic CIO

When technology was first making inroads into business, the IT leader's traditional job was "keeper of the infrastructure." The CIO-equivalent (the title did not exist at the time) presided over huge mainframes (and the requisite data punch cards), but little else.

Over time, as technology advanced into almost every aspect of the enterprise and became indispensable to the functioning of the organization, the CIO's profile began to rise.

If a single phrase could sum up the mission of technology executives during this phase, it might be this: "Get it done – better, faster, cheaper, and smarter." Their job was to support business processes and develop or deploy new applications. But they were rarely challenged on a managerial basis – they were "techs" more than "execs."

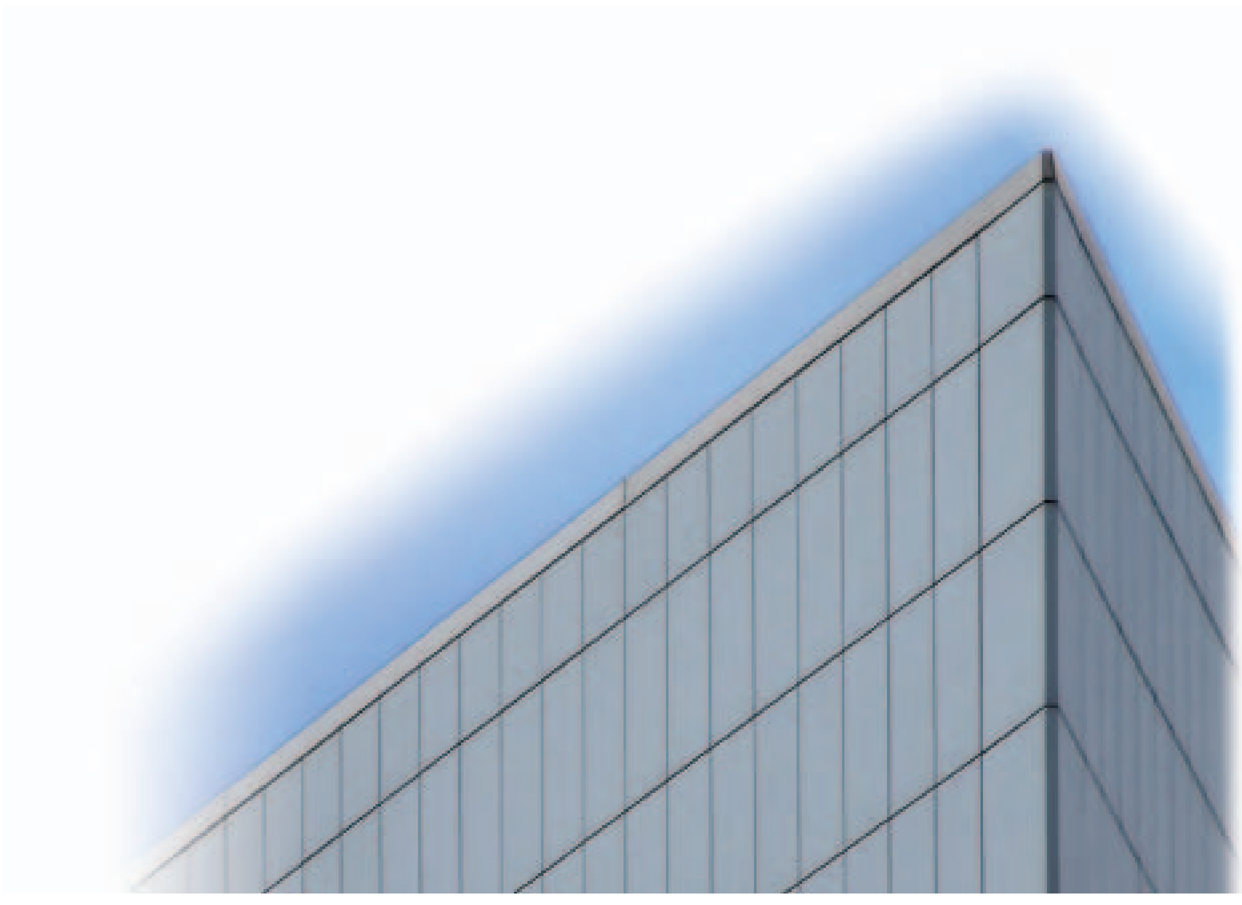
Likewise, their technology departments were basically miniature software companies. If traditional CIOs were unfamiliar with business strategy, it didn't much matter; the executive branch didn't understand IT either. Thus, technology and strategy were rarely uttered in the same breath.

The fortunes of the CIO took another turn ten-plus years ago with the rise of the Internet. Paradigms were being smashed and the World Wide Web was changing everything. CIOs seemed to be in a perfect position to become a true strategic partner in the business.

But somehow the opportunity slipped away. When the dot-com bubble burst in the first year of the 21st century, the aura surrounding CIOs was also punctured. Product and business organizations took over decision-making and strategy development around new technology tools, and CIOs once again became glorified caretakers responding to the needs of others.

Today, CIOs are pulled in many directions: by auditors, who want carefully documented evidence of strong IT controls; by CFOs, who want immaculate data, compressed closing cycles, and real-time information; and by CEOs, who want information upon which to base their strategic decisions. Adding to the stress are recent trends in offshoring and outsourcing, which have broadened the CIO's responsibilities while simultaneously diminishing oversight capabilities; the rise in end-user computing, which has eliminated the relative safety of mainframe computing and replaced it with more-exposed user machines; and Sarbanes-Oxley, which has placed significant emphasis on general computer controls and has accelerated a shift away from manual and toward automated controls.

Dolores Atallo-Hazelgreen specializes in advising Deloitte & Touche LLP's banking and financial services clients on risk management issues and corporate governance process transformation. She has more than 17 years experience assisting clients in customizing risk frameworks that focus on achieving business objectives and meeting industry standards.



RISK CORNER

One might expect that with added responsibility comes added resources. Yet, despite all these new demands, CIOs frequently have trouble convincing executives about resource needs and work that needs to be done, often because CIOs tend to frame their arguments in technical terms. The quandary for CIOs arose, we contend, because too many approached their job from a tactical perspective. Too often, IT leaders failed to look beyond the walls of IT. They frequently approached their work from a narrow, operational-delivery, compliance-based perspective. Activities were often project based, focusing on, say, regulatory compliance or fraud or network security, without considering the broader landscape.

Some CIOs were followers instead of leaders. Today, too many CIOs still run their departments according to the organizing principle: "I can do that; just give me a work plan." (There are, of course, notable exceptions of CIOs who have strategic responsibilities that are fully integrated into the broader business.)

The 21st Century CIO

Today, with the negative consequences of poor risk management escalating, CIOs are once again on the front lines. But while yesterday's problems usually had a monetary solution – companies could pay for a fix and move on – today's risks can't be managed just by throwing money at them. The blows that a company can take to its brand and reputation (often followed by a hit to market capitalization) can stagger even the most resilient organization. Additionally, with changes in commercial law, and with organizations increasingly judged by negligence standards (a lower standard of proof under which defendants pay for harm caused by their unreasonable activity), today's CIO faces the grim prospect of fines or even incarceration for failure to live up to their expanded fiduciary duties or to stop a crime on their watch.

Saddled with greater responsibility than ever for the deeds (and misdeeds) of others, CIOs have no choice but to seize the moment and reinvent themselves. The role of "technologist" no longer suffices; today's CIOs are under pressure to become broad visionaries and develop risk management skill-sets outside their traditional domain. For CIOs who seek to become an integral part of the senior management team, opting out of this transformation is not a choice. The new expectations regarding corporate social responsibility and the intense regulatory environment will not allow it.

In this new world, CIOs need to understand various types of risk: risk inside their IT operation; risks facing the broader organization; risks in the use and deployment of technology; and strategic risk. Of these, the last is often the most neglected. Yet the task of leveraging technology to enhance strategic risk taking, of using technology to gather business information that can provide insights into the management of strategic risks, should rank among the most important. Often, a lack of alignment between IT and the organization hampers the CIO's mission.

Today's CIOs cannot allow that. They must establish IT priorities, processes, and projects to fully align with the needs and risks of the organization. CIO's have essential knowledge and skills to help align IT and the rest of the organization, and to better coordinate IT assets with risk management needs. Boards, CEOs, and CFOs cannot do this without the CIO. Today's CIOs need to be leaders, not followers. In sum, they need to become "Risk Intelligent CIOs."

On Risk

We define risk as follows: Risk is the potential for loss or the diminished opportunity for gain caused by factors that can adversely affect the achievement of an organization's objectives. Risk comes in many guises, providing both opportunity and peril. Poorly managed, it allows a security breach by a hacker or a disgruntled employee, exposing an organization to potential loss and liability. Effectively addressed, it provides infrastructure to support, for example, the treasury group in managing currency risk, or supports the chief audit executive by providing systems to aid internal audit.

Risks can have various levels of impact, and different risks can combine or interact to create new and greater risks. For example, as shown in recent news reports, a privacy risk (such as stolen customer databases) can quickly turn into a reputational risk, followed by litigation risk and financial risk, all in short order.

Risks can be characterized as "unrewarded" or "rewarded." Unrewarded risks usually bring no benefit to an

organization. For example, risks affecting IT system availability, integrity of financial statements, and compliance with laws and regulations generally offer no reward even if they are properly managed. Conversely, rewarded risk-taking can offer a benefit, sometimes substantial, to an organization. For example, well-managed risks associated with new technologies, products, markets, business models, alliances, and acquisitions can result in increased profitability and market capitalization.
Risk management is not solely a technology issue; there also exists a major people component. Behavior modification, reward and discipline, processes and routines, change management and training, and other personnel issues all come into play.

Today's increased reliance on technology has elevated associated risks to worrisome levels. Today, the consequences of disruptions are far worse and longer lasting than in decades past.

Similarly, increased supply chain integration, globalization of markets, and business cycle correlation present new risk challenges and demand better risk management practices to cope with shocks and disasters.

The Risk Intelligent Enterprise

Despite a greater-than-ever need for effective enterprise risk management (ERM), confusion remains widespread in the workplace. This uncertainty is evidenced in the various approaches organizations take to ERM. In many cases, a senior executive will be nominally in charge of overall risk management, but he or she will quickly delegate responsibility and then exercise sporadic, or even negligible, oversight. In other instances, executives will respond reactively to new legislation, business initiatives, or events, rather than anticipating them and their associated risks.

Complicating matters, most C-suite executives don't really know what to expect of their IT groups in terms of managing risk, even as they shift major components of risk management execution to IT with vague instructions to "take care of it."

For their part, many CIOs are familiar with risk management as it pertains to their operational and security risks. But too many CIOs have segmented skill sets. Responsible for running the IT system, many still focus mainly on operational risks and data security to the exclusion of broader threats. Yet the situation facing CIOs calls for a radically different approach, because organizations today face risks that are unprecedented in corporate history.[1]
The term "Risk Intelligent Enterprise" describes organizations that have attained the highest state of risk management. Many characteristics define such enterprises, but for the purposes of this paper, we'll address just a few. (For a deeper discussion, see "The Risk Intelligent Enterprise: ERM Done Right" and other whitepapers in the Risk Intelligence series.[2])

Bridging Silos: Risk Intelligent Enterprises not only nurture risk expertise within their divisions, departments, and units, but also carefully build bridges between these risk "silos" to open lines of communication, share information, consider risk scenarios and the interaction of multiple risks, and gain a broader perspective on the totality of risk. Part of the bridging process includes developing common risk terminology and metrics so that everyone in the organization "speaks the same language."

Assessing Impact: With today's enterprises facing a seemingly infinite number of risks, it's impractical – if not futile – to attempt to plan for every single one. Thus, CIOs should focus on the finite impacts that could result from myriad threats. A business impact analysis can help illuminate the ways that an organization can be affected, regardless of the cause. For example, instead of having separate contingency plans for hurricanes, terrorist attacks, brownouts, fire, and sabotage (infinite causes), create a plan to address the impact of network unavailability (finite impact).

Risk Taking for Reward: Risk Intelligent Enterprises operate under a philosophy that encompasses not only risk mitigation, but also risk taking as a means to value creation. Risk taking for reward can assume many forms, from strategic acquisitions to research and development to entering new markets. Some organizations establish shared services centers to reduce the risk of numerous entities handling similar processes in a divergent manner; others take it a step further and use their shared services center as a platform to offer third-party services to other companies, turning a cost center into a revenue center in the process.

In our experience, organizations that are most effective and efficient in managing risks to both existing assets and to future growth will, in the long run, outperform those that are less so. Simply put, companies make money by taking intelligent risks and lose money by failing to manage risk intelligently.

The Risk Intelligent CIO

How do Risk Intelligent CIOs fit into this picture? By thinking expansively about how to tap into the potential of technology to intelligently manage risk. This means, among other things, identifying the right people to manage risk and providing them with appropriate training. It also involves championing a risk management philosophy that includes intelligent risk-taking for reward as well as risk mitigation.

Overall, the Risk Intelligent CIO must harness technology to embed risk management into the organization's day-to-day operations. Today's enlightened CIOs work to instill a common language to talk about risk and common metrics to measure it. They strive to unite risk management and monitoring initiatives across the corporate culture, instead of relying on separate processes for separate departments or organizational silos. They work in active partnership with other CxOs and executives in the organization's business, risk, finance, and other functions to accomplish all of the above through collaboration, consensus building, and teamwork.

In organizations that have established a risk committee, the CIO can help improve the decision-making capabilities of that group by providing timely access to relevant information; by facilitating an enterprise-wide view of risk; and by harmonizing the various risk issues the business units are dealing with, such as regulatory compliance.

The CIO's role entails both give and take. The manner in which the technology organization manages risk should be consistent with the approaches established by the central risk function. But at the same time, the CIO's group should provide infrastructure and support for technology platforms to measure and monitor other risks for the organization at large.

Of course, for today's CIO, managing risk isn't merely about technology solutions – it's about management and leadership. CIOs have to change, either personally, by adapting to the new realities, or institutionally, by being retired, replaced, or redeployed. A Risk Intelligent CIO devotes attention and resources to the following:

- the risk management processes that apply to the IT department – identifying, assessing, managing, and reporting IT-specific risks such as security, privacy, and business continuity
- the application of technology infrastructure across the enterprise to help other groups identify, assess, manage, and report their risks
- playing a true executive role in understanding how it all comes together at the enterprise level, ensuring that strategic risks are considered appropriately, and helping the board understand an enterprise's risks and the corresponding action plans that they need to be aware of.

[1] Colvin, Geoffrey, "Managing in Chaos," FORTUNE, October 2, 2006. This study of S&P 500 companies showed that overall risk levels more than doubled between 1985 and 2006.
In 1985, only 35 percent of the S&P 500 faced high risk and highly volatile long-term earnings growth. By 2006, that number had risen to 71 percent. During the same period, the number of companies enjoying low risk and volatility fell from 41 percent to 13 percent.

[2] www.deloitte.com/RiskIntelligence

Going green? We are hearing the word "green" everywhere now. Green (environmental) awareness, many feel, is overdue but it is clearly upon us now. Corporate industry, governments, and households worldwide are responding. Green is our future. And…FIRMA is listening.

But, I feel there is also a critical perception issue. What does it mean to be a green organization? What is the organization telling its customers by this label? How do we react to hearing the news of a green conversion? Organizations are reawakening to do good things for the environment and get credit for it, which will result in asking their customers to also change behavior. This is clearly a push towards re-adjustment; but this is good.

What is not good is the definitive view that green is a right or wrong issue – a viewpoint of "you are either with us or against us". Green is an environmental consciousness that will be embraced at every point on the pendulum scale. The challenge for companies and associations like FIRMA is to share your approach, your goals, your decisions – and to be open.

FIRMA's approach will be much like you would expect audit, compliance, and risk management professionals to take. We are listening, we are investigating, and we are learning from other organizations the scope of the challenge. We are also looking at the risks – or the impact – of green initiatives on our members and on the attendees at FIRMA programs. We have an exhaustive national study in hand – the Convention Industry Council's National Green Meetings Report. This study outlines critical green considerations – from choosing only green hotels or conference facilities, making decisions about bottled water and paper management, to streamlining your own office and desk-place innovative procedures. It is an excellent guide. We are hearing of better green ideas every day.

FIRMA is green aware. What is important, I feel, is for FIRMA to give reasoned study to all the ways we do business with a view to consider a green solution whenever possible and appropriate. We would be grateful for your ideas to help us in this green awareness as well.

Most sincerely,

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ANNOUNCING FIRMA in Alaska

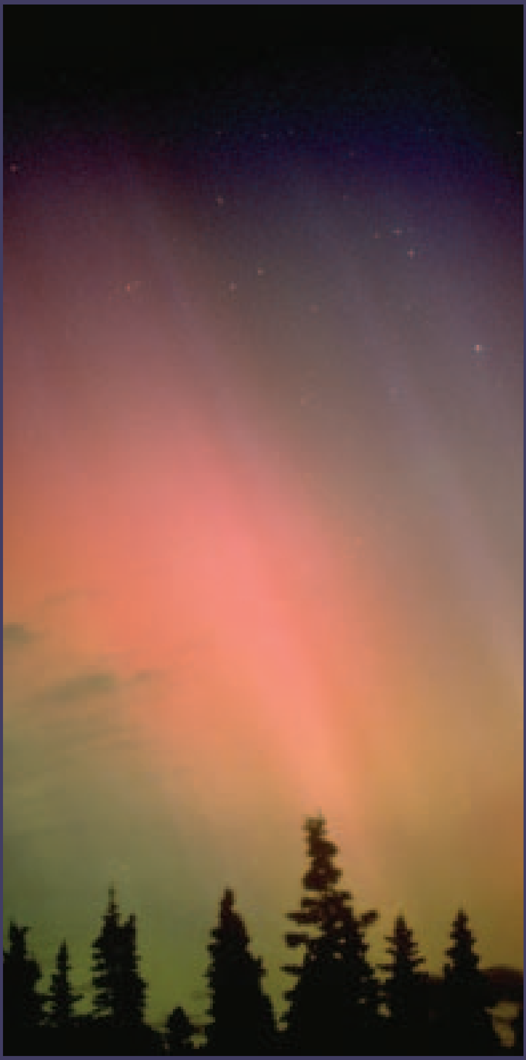
FIRMA is delighted to announce that we will hold our first-ever Regional Seminar in Anchorage, Alaska:

Date: September 11 & 12, 2008
Site: Hilton Anchorage

FIRMA has a block of rooms at the Hilton Anchorage at a rate of $149.00, single or double occupancy. Our room block extends for three days before and three days after the event, allowing you to travel and enjoy Alaska adventures in conjunction with our event.

This may be a once-in-a-lifetime opportunity for you to enjoy Alaska's wonders and FIRMA's training expertise. We hope you can join us for this event.

Please go to the FIRMA website - www.thefirma.org - for more information about Alaska, tour opportunities, and adventure-seeing offerings. The formal agenda for this FIRMA Seminar, with featured speakers and topics, will be posted in mid 2008.



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