

Deposit Insurance on Trust Accounts

Who is Covered and for How Much?

Brokerages may receive requests from their chartered banks asking them to disclose the beneficiaries of their trust accounts as at April 30. This is a requirement from the CDIC (Canadian Deposit Insurance Corporation) that requires banks to report the specifics of their clients' trust funds that contain multiple beneficiaries and amounts on an annual basis. This allows CDIC to track the deposit liability of the banking institutions. Credit unions in Saskatchewan are covered by a separate provincial program through CUDGC (Credit Union Deposit Guarantee Corporation), and their reporting requirements differ slightly. This article will look at both sets of requirements and provide some guidance on how to maintain compliance with your banking institution and its associated deposit insurance provider. The goal of sharing this information is to make sure that the funds in a brokerage trust account will be covered in the event of a bank failure, in order to protect the public's funds that are held in the brokerage trust accounts.

Firstly, you will need to determine if your financial institution's deposits are covered by an insurance program. Most Canadian chartered banks are CDIC members, as are most Canadian loan companies and trust companies that take deposits. Credit Unions in Saskatchewan are covered by CUDGC. However, some Canadian branches of foreign banks, and some Canadian chartered banks are not covered by CDIC. Those that are not CDIC members are required by law to inform you as such, and inform you that your savings at such banks are not insured. If this is the case, you may wish to transfer your brokerage business to a bank that does insure your deposits in order to protect the funds entrusted to your brokerage by members of the public.

Secondly, your bank needs to have clear communication from you that your trust account is designated as a trust account for funds held in trust on behalf of a beneficiary, or on behalf of multiple beneficiaries. A discussion should be had confirming with your banking professional that your brokerage trust account(s) meet their requirements.

Another important element to identifying the brokerage trust account for insurance coverage is the correct naming of the brokerage trust account under *The Real Estate Act*, Section 71(1), Bylaw 609. The legislation states that brokerage trust accounts shall be maintained in the brokerage's name followed by the words, "REAL ESTATE TRUST ACCOUNT" or "PROPERTY MANAGEMENT TRUST ACCOUNT" or "P.M. TRUST ACCOUNT", whichever applies to the brokerage. This naming is to be used only for brokerage trust accounts, and proper identification of the brokerage trust account will safeguard the deposits held within, as well as ensure ongoing compliance with the real estate legislation.

CDIC

The reporting requirement for chartered banks covered by CDIC states that for a trust account to be covered by CDIC deposit insurance, any trust account holder with multiple beneficiaries in that trust account must report the names, addresses and amounts held for each beneficiary to their bank annually as at April 30th. It was only as of last year that financial institutions were required to remind their trust account holders of this requirement, but the annual reporting requirement for trust accounts has been in place since 1996.

When reporting to your financial institution, the names and addresses of beneficiaries can be replaced with a confidential numbering system that is maintained at the brokerage if desired. For example: Beneficiary #1234 - \$10,000, Beneficiary #1235 - \$5,000. Once this information pertaining to the beneficiaries of the brokerage trust accounts has been gathered, banks must provide CDIC with the amount of insured deposits held by the bank on April 30 each year.

If there is a bank failure at any point during the year, the trust account holder (the brokerage) has 20 days from the day of the bank failure to update their list of beneficiaries and the amounts due to each beneficiary from the trust account, dating back to the day of bank failure.

Although this may be a new annual requirement to some, communicating this information to your financial institution guarantees that the trust account beneficiaries are covered up to \$100,000 per beneficiary. If the multiple beneficiary information of a trust account is not disclosed to the bank, and subsequently to the CDIC, the trust account deposit insurance coverage is rolled in with all of the other trust account holder's personal and business deposits, GICs, etc. to a maximum coverage of \$100,000 overall. Therefore, the merit in completing this task annually is well worth the effort in order to protect both the brokerage and the trust account beneficiaries.

If you have any further questions about the CDIC requirements for trust accounts, please feel free to contact the Commission's brokerage auditor, Ms. Johnson or you can visit the CDIC website at www.cdic.ca, or speak with your banking professional.

CUDGC

If your trust account is with a credit union in Saskatchewan that is covered by CUDGC, then your trust account deposits, and in fact all of your deposits, are fully guaranteed. According to the CUDGC, there is no limit to the size of the deposits held in Saskatchewan credit unions that are covered by the guarantee. The guarantee applies to all forms of personal, business and trust deposits held in Saskatchewan credit unions. The deposit guarantee is provided by legislative authority through *The Credit Union Act*, 1998.

As there is no limit on the deposit amounts guaranteed, there is no need to identify the multiple beneficiaries of the trust account to CUDGC, as no individual deposit limits apply. An updated list of beneficiaries would need to be provided in the event of a credit union failure to make certain that the proper amounts would be paid out to the beneficiaries of the brokerage trust account. If you have any further questions about the CUDGC Saskatchewan coverage, you may visit the CUDGC website at www.cudgc.sk.ca.

We hope that neither the CDIC nor the CUDGC will ever need to provide deposit insurance coverage on the brokerage trust accounts. However, by communicating with your financial institutions, establishing the correct trust account names and remitting the required information annually, brokerages can rest assured that in the event of a banking crisis, the members of the public that have entrusted their deposits to brokerages will be protected.