



Comprehensive Brokerage Services Policy Review for
Trust Owned Life Insurance





Why a Life Insurance Review

Life Insurance Changes

- Policies Not Performing as Expected
- Improved Underwriting
- New Riders May Offer Improved Options
- Longer-Term Needs Call for Permanent or Better Term Coverage
- Some Policies Scheduled for a Jump in Premiums
- Changing Insurer Ratings
- Newer Products
 - ❑ May be More Cost Efficient
 - ❑ May Offer Better Guarantees

Personal Changes

- Family Changes
 - ❑ Marriage, Birth, Divorce
 - ❑ Term to Permanent
 - ❑ Term at a better price
- Single Life now calls for Second-to-Die
- Policy Insufficient for Current Needs
- Changing Job & Benefits
- Buying a Business
- Covering a Mortgage
- Children's Education
- Providing for Grandchildren
- Current Retirement Options Insufficient to Cover Client's Lifestyle



Clients that May Need a Review

- **Younger & Middle-Aged Clients**
 - Changing Family Needs
 - To supplement income, make insurance permanent
- **Older Clients**
 - Focused on Estate Planning
 - Trust Owned Life Insurance
 - Need to keep their life insurance in force
- **Business Owner Clients**
 - Benefits – need to support promises
 - Business Continuation & Key Person

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Issues & Challenges Faced by Trustees

Trustees charged with:

- ✓ Meeting trust objectives.
- ✓ Respecting the rights of **all** beneficiaries.
- ✓ The need to comply with state and federal law.
- ✓ For TOLI - need to handle gifts to the trusts, provide notice of gifts and meet premium payments.

Trustees Face threat of lawsuits if:

- They fail, or
- Are perceived to fail, to meet trust objectives.

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Trustee's Dilemma

Bob & Mary set up estate plan 10 years ago

- ❑ Were age 65
- ❑ \$5,000,000 covered by second-to-die in a trust
- ❑ Couple had limited gifting capacity
- ❑ Planned \$80,000 Gifts for 12 Years (their age 77)

Irrevocable Trust (ILIT) bought two policies

- ❑ \$2.5M Variable Second-to-Die – for potential growth
- ❑ \$2.5M Participating Whole Life – for security

Ten Years Later – Much has Changed

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Trustee's Problem - VUL

Variable Universal Life

10 Years ago - Illustrated at 10%

- \$40,000/year would have carried \$2.5M death benefit

Performance – averaged 2% over past 10 years

- Under planned gifts - death benefit fails age 86
- Or triggers \$82,000 in premiums at age 86
- Continue planned premiums for life – fails at age 93



Trustee's Problem – Whole Life

- Participating Whole Life - \$40,000 premium
 - ❑ Kept premiums low with term-perm blend
- Dividends were to buy Paid Up Additions
 - ❑ Would have sustained \$2.5M Death Benefit
- Dividends have dropped with interest rates
 - ❑ \$2.5M death benefit will fail in year 89
 - ❑ Or maintain current premiums for life

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Widespread Lack of Review

- Trust Owned Life Insurance (TOLI) Survey
- Professional Trustees
 - ❑ 83.5% - No guidelines & procedures for TOLI
 - ❑ 95.3% - No policies for variable life policies
- Family & Friends as Trustees
 - ❑ 94.7% - No policies for variable life policies
 - ❑ 71.2% - Have not reviewed life policies in past five years



Why TOLI Isn't Monitored?

- Long term buy & hold
- Complex financial instrument
- Agents may have “fallen” out of the picture
- Standards are increasingly imposed on trustees
 - ❑ Uniform Prudent Investors Act (UPIA)
 - ❑ Office of the Comptroller of the Currency (OCC) standards



Areas Where TOLI Needs to be Reviewed

Life Insurance Changes

- ✓ Policies Not Performing as Expected
- ✓ Changing Insurer Ratings*
 - ❑ Focus should be on dramatic decreases
- ✓ Newer Products
 - ❑ More Cost Efficient
 - ❑ Offer Better Guarantees
- ✓ Improved Underwriting
- ✓ New Riders May Offer Improved Options
- ✓ Second-to-die vs. Single Life Policies
- ✓ Some Policies Scheduled for a jump in Premiums

Counterbalancing Items

Changing policies triggers:

- ❖ New surrender charges & costs
- ❖ Possible loss of benefits

Client may be trading one current assumption product for a 2nd

New Contestability Period

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Uniform Prudent Investors Act

UPIA - Accepted by Most States

- Created by Uniform Acts National Conference
- Now Accepted by Most States
- Sets minimum standards
 - ❑ States and clients can set higher standards
- Trend - Increasing duty of care

Key Elements of UPIA

- Act on behalf of all beneficiaries
- Review ALL Trust Assets - new or existing
- Extends to “entire trust portfolio”
 - ❑ Life Insurance captured by Uniform Act
 - ❑ Not just traditional investment assets
- Must look to the purpose of the trust
- Professional Trustees may be held to a higher standard



OCC Banking Standards

Standards Set for Bank Owned Life Insurance

- Key Points of Due Diligence include:
 - ❑ Quantify the death benefit amount
 - ❑ Vendor/Agent selection
 - ❑ Review types of life insurance
 - ❑ Analysis of the bank's ability to monitor the life insurance
 - ❑ Carrier selection

Later Standards for Variable Life Insurance



Areas Where Trustees Might be Sued

Key Areas Where Trustees Might be Sued

- Negligence in Maintaining a Policy
- Bad Investment Decisions
- Poor Life Insurance Design/Improper Policy
- Poor Vendor Selection

Negligence with Policy Care

- CPA failed to pay premiums
- Trustee who accepted gifts, but failed to pay premiums

Bad Investment Decisions

- No Specific Life Insurance Cases

Life Insurance Design

- “Vanish” Never Occurred
- Beneficiaries believed more death benefit could have been obtained
- Difference in what was issued vs. illustrated

Vendor Selection

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Bank's View of their Fiduciary Liability

One Bank's Experience

- 300 clients that have ILITs
- 539 policies in ILITs
- ILITs held policies with total cash value of \$38,447,337 and total death benefit of \$428,498,015

Bank's View of their Fiduciary Liability

Duty to properly manage the \$428,498,015

Managing life insurance assets is different than managing stocks, bonds, and real estate

- Brought in Outside Advisors

From a liability perspective, life insurance is no different than a stock, bond, or real estate



Fiduciary Liability Questions

1. Is the policy in danger of lapsing?
2. How strong is the insurance carrier?
3. Is there a better policy in the marketplace?