

# Irrevocable Life Insurance Trust (ILIT) Administration Risks

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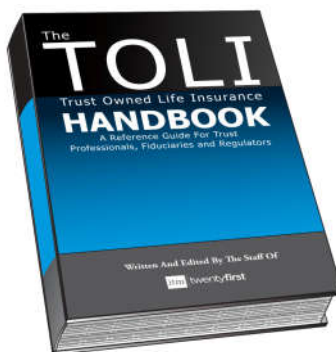


## Session Overview

- The TOLI Handbook
- What is an ILIT and why they are useful
- What are a trustee's duties and responsibilities
- Guidance for trustees
- Fiduciary risk and TOLI statistics
- Life insurance policy remediation and case studies
- Closing thoughts / questions

## The TOLI Handbook

Download your free  
copy of the TOLI  
Handbook at:  
[www.tolihandbook.com](http://www.tolihandbook.com)



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## Irrevocable Life Insurance Trust



- What is an ILIT?
- Why use an ILIT?
- How does an ILIT help?

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## Trustee Responsibilities

- Trustee duties include:
  - Follow the specific terms laid out in the trust agreement
  - Refrain from using the trust property for the benefit of the trustee
  - Act impartially and administer assets in the best interest of the beneficiaries
  - Avoid conflicts of interest



## Guidance for Trustees

- Uniform Prudent Investor Act (UPIA)
  - 7 of the 16 sections of the UPIA provide guidance for TOLI trustees
    - Section 1 – duty to the beneficiaries
    - Section 2 – standard of care
    - Section 4 – duties at inception of trusteeship
    - Section 5 – loyalty to the beneficiary
    - Section 7 – investment costs
    - Section 8 – prudent decision making
    - Section 9 – delegation of investment and management functions

# Guidance for Trustees

- The Unique & Hard to Value Assets Handbook
  - Published by the Office of the Comptroller of the Currency (OCC)
- Guidelines for TOLI
  - Initial post-acceptance review
  - Annual review
  - A fiduciary must understand life insurance or employ an independent advisor who does
  - Process is key

# Fiduciary Risk



Insurance policies are complex and often misunderstood. Unfortunately, the risk of mismanagement can result in substantial liability to trustees.

## Legal Risk

- **Trust Mismanagement**
  - Are trusts being administered in accordance with terms?
  - Are Gift and Crummey notices being handled properly?
- **Policy Mismanagement**
  - Is policy being properly funded?
  - Are there more competitive products available?
  - Are policy issues being remediated?

## Regulatory Risk

- **Failure to Complete Annual Policy Reviews**
  - Are policies reviewed annually by qualified, independent insurance personnel (internal or external)?
  - Are troubled policies being addressed and remediated?
- **Challenges Responding to Audits**
  - Are documents and reports relating to policy and trust management readily accessible?

## Reputational Risk

- **Poor Client Experience**
  - Are grantors and beneficiaries receiving the best value they can from their insurance assets?
  - Are there actions that could be taken to save clients money or increase their benefits?

## Key TOLI Statistics

- Insureds over the age of 60 make up 72%, while insureds over the age of 70 make up 46%
- 61% of policies are over 10 years old, including 28% of policies which are over 20 years old
- The average age of an ILIT is 20 years, however the average duration is 37 years
- 34% of policies are rated HIGH RISK
  - 31% - projected to lapse prior to maturity
  - 15% - projected to lapse prior to life expectancy
  - 30% - compromised "no-lapse guarantees"
  - 35% - stopped paying premiums



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## Life Insurance Policy Remediation

- What are the most common forms of TOLI remediation?
  - Misunderstood policy
  - Over-loaned policy
  - Policy performance
  - Cost of Insurance (COI) increase
  - Premature lapse
  - Changing trust goals
  - Changing trust contributions
  - New policy coming into the trust



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## Remediation Case Studies



Cost of Insurance  
(COI) Increase



Grantor Stops  
Funding To Pay  
Policy Premiums



Advisor  
Proposes Policy  
Replacement

## Closing Thoughts

- Download your free copy of the TOLI Handbook at:  
[www.tolihandbook.com](http://www.tolihandbook.com)
- Sign up for the ITM TwentyFirst Blog at:  
<http://youritm.wordpress.com>
- Questions?

# Thank You

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