

## The Life of a Trust: Key Stages Over Time

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Many attorneys serve as special needs trustees or contemplate adding a fiduciary practice to their business model. They may advocate with trustees whose beneficiaries are the attorney's clients, or advise trustees on their roles and responsibilities. By their nature, trusts are long term planning tools and the trustee's tie to a beneficiary may last for years. The success of this enduring relationship is made more likely by starting with a clear understanding by both the trustee and beneficiary (and often the beneficiary's family) of the goals, guidelines and processes involved and by both sides remaining flexible and communicating consistently and effectively over time. The special needs trustee will also eventually have to manage the termination of the trust. Most often the trust will terminate when the beneficiary dies. The termination of a trust may come before that time if assets are depleted, or significant changes occur in the beneficiary's circumstances. In all trust terminations, clear guidelines will help the trustee manage this process more effectively.

Understanding the perspective of professional trustees can help attorneys better to counsel and advocate for their clients, who may be trustees or beneficiaries, as well as help the attorneys who are or are considering serving as fiduciaries themselves.

Three professional trustees have been invited to discuss the three stages in the life cycle of a special needs trust. Together, they currently serve over 2,100 first and third party special needs beneficiaries. Our panelists represent a nonprofit trust company offering pooled trust accounts as well as trustee services for stand alone trusts in the state of Connecticut; a for profit national trust company serving as trustee for individual trusts; and an attorney in private practice in Indiana with a robust fiduciary practice in addition to his elder law, special needs and estate planning practice. Our panelists have shared their checklists for the beginning, ongoing and termination phases of administering a special needs trust. These are attached.

**Attachment 1** – PLAN of CT: New Trust Funding Checklist.

**Attachment 2** - Capital First: SNT Account Review; General Account Review; 90 Day New Account Review.

**Attachment 3** – Fechtman Law Office: Procedure for Closing Trust Administration; Closing a Trust Checklist; Trust Administration Closing Memo.

**Attachment 1 – PLAN of CT: New Trust Funding Checklist.**

# New Trust Funding

## Checklist

### Funding

- ☐ **1.** Verify origin of funds
- ☐ **2.** Verify potential for additional funding
  - ☐ **a.** IRA
  - ☐ **b.** Life Insurance
  - ☐ **c.** Property to be sold/estate to close/settlements
    - ☐ **d.** Annuity
- ☐ **3.** Reach out to any institutions that may have funds for the trust. Begin paperwork
- ☐ **4.** Begin investment assessment

### Trust Document Review

- ☐ **1.** Review the trust document for any specific concerns. Document the concerns
- ☐ **2.** Verify remainder beneficiaries and addresses
- ☐ **3.** Review the *Letter of Intent*
  - ☐ **a.** Is it likely there have been changes due to the passage of time?
  - ☐ **b.** Review priorities
  - ☐ **c.** Document concerns for follow up
- ☐ **4.** Verify/collect essential documents
  - ☐ **a.** SSA letter
  - ☐ **b.** Guardianship/Conservatorship appointment
  - ☐ **c.** State benefit letters

## New Trust Funding

### Checklist

## Account Set Up

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- ☐ **1.** Obtain Tax ID if needed
- ☐ **2.** Reach out to banking institution to open new account
- ☐ **3.** Discuss funding/expected rate of spending with investment manager
- ☐ **4.** Set tickler to ensure investment of funds

## Beneficiary Contact

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- ☐ **1.** Set up an appointment to meet with the beneficiary/designated agent
- ☐ **2.** Confirm benefits received and impacts to trust disbursements
- ☐ **3.** Discuss expectations, budget and expected rate of spending
- ☐ **4.** Follow up the meeting with a summary in writing/welcome packet
- ☐ **5.** Send first contact letter to remainder beneficiaries

## Software Systems Updates

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- ☐ **6.** Make updates in software systems
  - ☐ **a.** Confirm/update addresses/phone numbers
  - ☐ **b.** Confirm designated agents
  - ☐ **c.** Enter statement recipients
  - ☐ **d.** Update benefits
  - ☐ **e.** Set ticklers for accountings
  - ☐ **f.** Update billing information

## Trusts Established Through a Court

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- ☐ **1.** Submit inventory
- ☐ **2.** Set tickler for annual accounting

## Other- Self-Settled Trusts

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- ☐ **1.** Ensure trust document has been provided to appropriate agencies as required
- ☐ **2.** Discuss the following with beneficiary/designated agent
  - ☐ **a.** The trust's inability to pay bills upon the passing of the beneficiary and pre-paid funeral options
  - ☐ **b.** Distributions must be for the sole benefit of the beneficiary
  - ☐ **c.** State payback provisions
- ☐ **3.** Verify proof of disability on file

**Attachment 2** - Capital First:

SNT Account Review;

General Account Review;

90 Day New Account Review.

Annual Account Review – SNT TO

Start Date:

ACCOUNT INFORMATION			
Account Name:		Trust Officer:	
Account Number:		Trust Administrator:	
Account Type:			
GOVERNING INSTRUMENT			
	Read governing instrument and verify administration of the trust is in line with the agreement.		
CLIENT RELATIONSHIP			
	Have there been any complaints about administration or compliance that were not documented on the Watch or Complaint List since the last review?		
TRANSACTION HISTORY			
	Verify pending disbursements are current and trust masters are accurate.		
	Verify all distributions made are accurate and all mandatory distributions have been made.		
	Verify all documentation for distributions, including Trust Outlines and co-fiduciary decisions, are in SharePoint.		
	Verify fees charged are consistent with fee schedule.		
	Prior Year Distribution %	If >5%, complete a depletion analysis or state the reason it is not necessary to complete:	
	If the distribution percentage is greater than 10%. Depletion letter was mailed:		
INVESTMENTS & ASSETS			
	Vehicle Lien	Insurance Coverage Period:	
	Trust Owned Real Estate	Insurance/Property Taxes current on Salentica:	
DELEGATED TRUST			
	For trusts with delegated authority, list date trust officer and investment advisor verified the investment objective/allocation is appropriate for the trust's purpose, beneficiary's needs, and horizon.		
TASKS			
	Verify the accuracy of synoptic records.		
	Verify all accountings are current and timely. Last date of latest accounting filed:		
	Review and complete any outstanding tasks in CFO.		
	Beneficiary status:		
	Beneficiary address: Does the address for the beneficiaries on Salentica and CFO match?		



Statement recipients:	
List name(s) of authorized person(s):	
List documentation on file for the authorized person(s):	
	True Link Card
	Agreement on file/Copy of card
	Verify spending monitor is appropriate under the terms of governing document.
	Verify public benefits on file are current.
	If no, update file immediately and mail form to client.
	Review terms of document for after-life planning and discuss with beneficiary.
<b>CLIENT OUTREACH</b>	
Confirm Beneficiary Address:	
Confirm Citizenship:	Confirm Residency:
	Verify authorized person(s) has received their account statement and tax information.
	Discuss potential trust distributions and other relevant matters.
Comments:	

Trust Officer Signature:

Date:

*If randomly selected for review, the Trust Director signature:*

Trust Officer Director:

Date:

Date of last account review entered in Salentica and CFO:

CONVERSATION CHECKLIST	
	Direct Deposit Form
	Vehicle Registration
	Updated Driver's License
	True Link Activity Agreement

**Annual Account Review – Wealth TO**

**Start Date:**

ACCOUNT INFORMATION			
Account Name:		Trust Officer:	
Account Number:		Trust Administrator:	
Account Type:			
GOVERNING INSTRUMENT			
	Read governing instrument and verify administration of the trust is in line with the agreement.		
CLIENT RELATIONSHIP			
	Have there been any complaints about administration that were not documented on the Complaint List since the last review?		
TRANSACTION HISTORY			
	Verify pending disbursements are current and trust masters are accurate.		
	Verify all distributions made are accurate and all mandatory distributions including net income have been made.		
	If net income distributions are mandatory, verify information on Net Income Calculations spreadsheet.		
	Verify all documentation for distributions, including Trust Outlines and co-fiduciary decisions, are in SharePoint.		
	Verify fees charged are consistent with fee schedule.		
	Prior Year Distribution %	If >5%, complete a depletion analysis or state the reason it is not necessary to complete:	
	If the distribution percentage is greater than 10%. Depletion letter was mailed:		
INVESTMENTS & ASSETS			
	For ILIT's, verify insurance premiums have been paid.		
	For ILIT's, verify a copy of the Crummey notice is on file.		
	Trust Owned Real Estate	Insurance/Property Taxes current on Salentica:	
DELEGATED TRUST			
	For trusts with delegated authority, list date trust officer and investment advisor verified the investment objective/allocation is appropriate for the trust's purpose, beneficiary's needs, and horizon.		
TASKS			
	Verify the accuracy of synoptic records.		
	Review and complete any outstanding tasks in CFO.		
	Beneficiary address: Does the address for the beneficiaries on Salentica and CFO match?		
Statement recipients:			

**CAPITALFIRST**  
TRUST COMPANY

*A matter of trust.*

## CLIENT OUTREACH

Confirm Beneficiary Address:

Confirm Citizenship:

Confirm Residency:

Verify authorized person(s) has received their account statement and tax information.

Discuss potential trust distributions and other relevant matters.

Comments:

Trust Officer Signature:

Date:

*If randomly selected for review, the Trust Director signature:*

Trust Officer Director:

Date:

Date of last account review entered in Salentica and CFO:

Date:

Department:

New Account - 90 Day Review

Trust Type:

**ACCOUNT INFORMATION: (First Person to Start Checklist)**

Trust name:	
Account number:	Annual review month:
Case Manager:	Trust Officer:
Original or authenticated copy of physical Trust Document in hard copy file:	
If no, requested:	Status:
Authorized Party:	If Authorized Party is a financial Power of Attorney or guardian/conservator, is the legal document or birth certificate on file:
Is any current beneficiary or Authorized Party a non-US citizen or resident:	
BSA risk rank:	Tier rank:
Funding date:	Funding amount:
Trust Officer introduction call date:	
Run New Account Review (599) report, save to Sharepoint file and review account setup:	

**OPERATIONS: (Director or Case Manager)**

Investment function:	PRS account profile:
Data feed working (SMA):	Cost basis uploaded:
Online access (SMA):	Last Pass entry (SMA):

**ASSET ALLOCATION/INVESTMENTS: (Trust Administration)**

Money Market (CTFC & SMA):	\$		
Invested:	\$		
If core, dollar cost averaging:			
ESI (secondary market annuity):	\$		
Annuity (listed at surrender value):	\$	Contract on file:	
Insurance (listed at surrender value):	\$	Contract on file:	Premium notice:
Real Estate:	\$		
Specialty Assets:	\$		
Other: _____	\$		
Verify that all assets owned by the trust are booked on CFO: CM <input type="checkbox"/> TO <input type="checkbox"/> DR <input type="checkbox"/>			
List any large distributions that may impact asset allocation:			
Comments:			

**TRANSACTION HISTORY/ADMINISTRATION: (Trust Officer)**

Trust masters:	Describe:	
Caregiver payments:	Attorney fees:	
Item masters:	Describe:	
Mandatory Income/Unitrust Distributions:	Frequency:	If other:
Net Income Calculations spreadsheet reflects account:		Trust Master estimates for Unitrust payments:
ILIT's – If insurance premium is paid by CFTC, are Crummey notices on file:		If no, explain: _____
Notes:		

### TRUSTEE FEES: (Case Manager and Operations)

Fee schedule:	CFO Fee Schedule Code No. _____ Is fee schedule saved in Sharepoint: Is the account part of a consolidated/household relationship? If yes, family/associated accounts listed: _____ _____ Any assets excluded from fees: _____ If excluded, what: _____ Operations associate reviewing set up? _____ Date: _____
Fee computation:	Verified Computation of Commission Report matches fee schedule in Sharepoint file: Requires correction: Setup fee charged: _____ If waived, reason: _____

### BANK SECRECY ACT (BSA)/ANTI MONEY LAUNDERING (AML): (Director)

Confirm CIP information gathered for each grantor, current beneficiary, POA, guardian, and/or conservator:
Confirm results from all OFAC searches are in the account's Personal & Intake folder:
Confirm Citizenship, source of funds, anticipated use and PEP gathered on the Intake form:
Confirm foreign assets are properly coded:

### SALENTICA: (Trust Officer and Director)

Confirm citizenship and residency status is added for each contact in Salentica: (grantor/beneficiary/POA/guardian/conservator)
Contacts entered:
Is the beneficiary receiving public benefits:
If yes, confirm that public benefits are entered on Salentica:
Confirm front-end notes have been entered in Salentica:
Ticklers are entered in CFO:

### ADMINISTRATIVE - Statements and Tax: (Trust Officer and Director)

Statements: Are all beneficiaries and parties required under the agreement and governing law to receive accountings set up to receive statements?	
Tax Type:	Preparer: <input type="checkbox"/> EY <input type="checkbox"/> Outside    If outside, who: _____
If EY, are all main and sub-accounts set to bridge?	
Are the appropriate beneficiaries set up to receive tax reporting documents?	
If Wealth, GST status:	
Are date of death inventory, Form 706, and/or Form 709s in SharePoint?      If no, explain: _____	

### TRANSFER DOCUMENTATION: (Case Manager)

<u>Inherited IRAs</u>	
12/31 Value:	RMD current year:
If transfer, RMD factor:	RMD satisfied prior to transfer:
Account owner date of death:	
<u>Tax</u>	
Prior 3 years tax returns:	
Tax register/Report showing transactions for the prior year:	
Estimated tax payment schedule:	
If Grantor is deceased, date of death:	
3-year statements:	
Zero balance statement:	

OPEN ITEMS/COMMENTS:	

REVIEWED BY:	
Case Manager:	
Trust Officer:	
Director:	
Operations Manager:	

FINAL STEPS: TA enters the review completion date in Salentica.

**Attachment 3** – Fechtman Law Office: Procedure for Closing Trust Administration;  
Closing a Trust Checklist;  
Trust Administration Closing Memo.

## **PROCEDURE FOR CLOSING TRUST ADMINISTRATION CASES**

1. Send closing letter indicating that trust fund has been completely depleted.
2. Make sure that all trustee fees have been paid.
3. Check the Task List to ensure that all projects have been completed.
4. Change the “Case Status” on the Case List to read “Closed”.
5. Change the Current File Location under the Settings tab in PC Law Matters to “Closed.”
6. Set aside all important documents, such as court pleadings, original trusts, deeds, titles, annuity contracts.
7. Shred the printer reconciliation spreadsheets, and then scan and shred everything else.
8. Complete Closing Memo and move file to closed files.



### **CLOSING A TRUST CHECKLIST**

1. Condolence (Send card to family)
2. Request a copy of death certificate
3. Who are the heirs? (Adopted children, siblings and ½ siblings, prior to DOD, husband/wife even if deceased)
4. Was there a Will?
5. Do we have to pay Medicaid? (Was the deceased over 55 when services were billed/paid?)
6. Do we need to open an Estate?
7. Tax Issues?
8. 1040 (final)?
9. 1041?
10. K-1?
11. Will there be 1099s? (Look to see when assets sold/capital gain/interest)
12. Is a small estate affidavit needed?
13. Will there be any more annuity payments? (Need to notify of DOD)
14. Who do they pay to and when?
15. Is there another settlement?
16. Is there a Medicare Set-Aside account?
17. Are there any non-investment assets? (House, vehicle, etc.-May need to release lien. May need to transfer. Will need to pay to record Deed)
18. Cancel services. (Auto and homeowners insurance, utilities, lawn services, etc.)
19. Is there a pre-paid burial? Grave plot? Monument?
20. Is there an IRA, 401(k)? (Who are the beneficiaries?)
21. Is the trustee bonded? May have a refund or post-date on final accounting for release.)
22. Do we report to the Court? (Accounting)
23. Make sure funds are liquidated.
24. Tax preparation fee.
25. Taxes due.
26. Medicaid payback.
27. Trustee final fees.
28. Prepare final accounting and maybe supplemental.
29. Send letter to trust beneficiary or their family to claim contents in file.

Trust admin/admin

## **TRUST ADMINISTRATION CLOSING MEMO**

Date: \_\_\_\_\_

Case Name and Number: \_\_\_\_\_

Case Type: \_\_\_\_\_ Atty: \_\_\_\_\_ Responsible Person: \_\_\_\_\_

Referral Source: \_\_\_\_\_

Overview of Case: \_\_\_\_\_

\_\_\_\_\_

Identify any future projects or information that may be helpful if this case is reopened: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- \_\_\_\_\_ Prepare and send closing letter
- \_\_\_\_\_ Review billing and payment status and review with responsible attorney, as needed
- \_\_\_\_\_ Change Current File Location in PCLaw Matters
- \_\_\_\_\_ Change Case Status in Case List
- \_\_\_\_\_ Remove case from Task List
- \_\_\_\_\_ Organize file and prepare for storage
- \_\_\_\_\_ File to closed files