

The word "Argent" is written in a white, elegant, serif font. The letter 'A' is particularly large and features a decorative flourish that extends to the left. The background is a solid blue color with a large, faint, light blue watermark of the same "Argent" logo behind the main text.

# Argent

Client Notifications: the safety cards of our industry

Presented by Deidre S. Waltz, Vice President—Argent Trust

- Privacy Disclosure
- IRA Notices and Forms
- Trust Notices and Accountings
- FDIC Insurance Notices

# PRIVACY DISCLOSURES

- Regulation P requires notice to consumers about a financial institution's privacy policy and practices.
- Disclosures are required to describe when nonpublic personal information may be disclosed to nonaffiliated third parties.
- Disclosures must provide a mechanism for consumers to opt out from information sharing.
- Initial and Annual Notices are required.



# Who is protected? What is the difference between a consumer and a customer?

- ▶ The privacy rule protects “consumers”. A subset of consumers is “customers”.
- ▶ Consumer - any individual who is seeking to obtain or has obtained a financial product or service from a bank for personal, family or household purposes
- ▶ Customer – a consumer with whom the bank has a *continuing relationship*
- ▶ Commercial clients, grantors or beneficiaries of trusts for which the bank is a trustee are NOT “consumers”.



## When does the relationship begin? When does a consumer become a customer?

- A financial institution must provide an initial notice of its privacy policies and practices to each customer, not later than the time a customer relationship is established.
- Best practices would suggest providing the notice prior to the client signing any documents that establish an account, product or service.

➤ Nonpublic Personal Information – personally identifiable financial information that is not publicly available or lists of consumers created using nonpublic personal information

➤ Personally identifiable financial information includes

- Information a bank collects about a consumer in conjunction with providing a financial product or service (e.g., name, address, income)
- Information resulting from the financial product or service transactions (e.g., payment history, loan balances, credit card purchases)
- Information from other sources obtained with providing the financial product or service (e.g., consumer credit report)



## Who are Non-Affiliated Third Parties?

- Nonaffiliated Third Party – persons or entities except affiliates and persons jointly employed by a bank and a nonaffiliated third party
- Affiliates generally include a bank’s subsidiaries, its holding company and any other subsidiaries of the holding company.
- The privacy rules does not impose limitations on information sharing with affiliates. It does, however, required discloser of such information sharing polices and practices.

# Argent | Why?

- Gramm-Leach-Bliley Act was created after Citicorp merged with the insurance firm Travelers Group. This led to the formation of Citigroup, which offered not only commercial banking and insurance services but also lines of business related to securities. Affiliates generally include a bank's subsidiaries, its holding company and any other subsidiaries of the holding company.
- The GLBA required banks to fully explain their information-sharing practices to their customers. Firms must allow their customers the option to “opt out”, if they do not want their sensitive information shared.



# IRA NOTICES & FORMS

# Argent | Fair Market Value Statement

- Financial organizations must provide an annual fair market value statement to IRA owners and beneficiaries (of inherited IRAs) by January 31.
- The report must show the IRA's FMV as of December 31 of the previous year.
- Traditional, Roth, SIMPLE IRAs as well as IRAs that contain simplified pension (SEP) plan contributions are included in this requirement.
- Difficult to value assets can be problematic. These assets include
  - Non-publicly Traded Stock
  - Limited Partnerships & LLC's
  - Real Estate

- **IRA administrators must ascertain the FMV of an IRA investment**
  - The IRS does not provide guidance on how to value these assets.
  - Establishing procedures for obtaining values, including time frame, circumstances for using non-independent valuations and steps to take when a valuation is not judged to be reasonable is recommended.
  - An agreement with the IRA owner should clearly list each party's duties, including how valuations are obtained, how often and who pays for them.
- **Risks**
  - IRS penalties for failure to provide an accurate and timely FMV statement
  - Lawsuit regarding undervalued assets (underreported income)

# Argent | Required Minimum Distribution Statement

- ▶ If a distribution is required to be taken from an IRA, and the IRA owner is alive at the beginning of such year, the financial organization holding the IRA on December 31 of the prior year must provide an RMD statement to the IRA owner.
- ▶ The RMD statement is due by January 31 of the year for which the distribution is required. The organization also must include the estimated RMD amount in the statement or provide contact information on the statement indicating that the organization will provide the RMD amount upon request.
- ▶ The RMD statement requirement does not apply to beneficiaries of inherited IRAs.

# Argent | RMD Required Begin Dates

AGE RMD REQUIRED	70 1/2	72	73	75
YEAR AGE REACHED	2019 (and earlier)	2020	2023	2033



# RMD rules – participant dies before RBD (after 2019)

BENEFICIARY	RMD'S	FINAL PAYOUT
Surviving Spouse (EDB)	Annual distributions over surviving spouse's life expectancy (if not rolled over into surviving spouse's IRA).	10 <sup>th</sup> Anniversary of the EDB's death (if that comes earlier than the final year of the life expectancy payout).
Minor child of Participant (EDB)	Annual distributions over beneficiary's life expectancy.	10 <sup>th</sup> Anniversary of the EDB's death or the child's 21 <sup>st</sup> birthday, whichever is earliest.
Other Eligible Designated Beneficiary (EDB)	Annual distributions over beneficiary's life expectancy.	10 <sup>th</sup> Anniversary of the EDB's death (if that comes earlier than the final year of the life expectancy payout).
Designated Beneficiary (Not EDB)	None	10 <sup>th</sup> Anniversary of the participant's death.
Non- Designated Beneficiary (Estate)	None	5 <sup>th</sup> Anniversary of participant's death



## RMD rules

### - participant dies on or after RBD (after 2019)

BENEFICIARY	RMD'S	FINAL PAYOUT
Surviving Spouse (EDB)	Annual distributions over surviving spouse's life expectancy (or participant's life expectancy, if longer).	10 <sup>th</sup> Anniversary of the EDB's death, final year of EDB's life expectancy or final year of participant's life expectancy, whichever is earliest.
Minor child of Participant (EDB)	Annual distributions over beneficiary's life expectancy.	10 <sup>th</sup> Anniversary of the EDB's death or the child's 21 <sup>st</sup> birthday, whichever is earliest.
Other Eligible Designated Beneficiary (EDB)	Annual distributions over beneficiary's life expectancy (or participant's life expectancy, if longer).	10 <sup>th</sup> Anniversary of the EDB's death, final year of EDB's life expectancy or final year of participant's life expectancy, whichever is earliest.
Designated Beneficiary (Not EDB)	Annual distributions over beneficiary's life expectancy (or participant's life expectancy, if longer). <i>Note: Final Regs have not been issued.</i>	10 <sup>th</sup> Anniversary of the participant's death or final year of beneficiary's life expectancy, whichever is earliest.
Non- Designated Beneficiary (Estate)	Annual distributions over participant's life expectancy.	Final year of participant's life expectancy.

# Argent | SIMPLE IRA Account Statement

- By January 31 following the close of each calendar year, financial organizations must provide an account statement to each SIMPLE IRA owner who maintains a SIMPLE IRA with their organization.
- The statement must include the individual's account balance as of the close of that calendar year, along with a summary of the account activity during that calendar year.
- Account activity includes all distributions and fees taken from the SIMPLE IRA as well as all contribution activity.
- The requirement is for a “summary” of activity or total amounts of contributions, distributions and fees, but detailed reports can be provided.

# Argent | IRA Distributions: IRS Form 1099-R

- Financial organizations must report Traditional, Roth and SIMPLE IRA distributions made during the calendar year on the Form 1099-R.
- All distributions, including distributions that result in rollovers, recharacterizations and conversions are generally reported. IRA transfers are generally not reported.
- Qualified Charitable Distributions are included in the Gross Distribution amount on Lines 1 and 2.
- The deadline for providing the Form 1099-R to plan participants is January 31.
- Copy A must be filed with the IRS by February 28, for scannable paper filings, and by March 31 for electronic filings. If filing a paper form, the form must be filed with a Form 1096 (Annual Summary and Transmittal of U.S. Information Returns).

# Argent | IRS Form 945 and 945-A

- Form 945 reports federal income taxes withheld from non-payroll payments (e.g., withholding from IRA accounts).
- Generally, due to the IRS by January 31.
- Some payers are required to file Form 945-A Annual Record of Federal Tax Liability in addition to Form 945 depending upon the payer's withholding depositor status. This is a detailed worksheet of withholding activity.
- If withholding deposits are made on time and in full, the due date for filing Forms 945 and 945-A is February 10 rather than January 31.

# Argent | IRA Contributions

- Regular contributions generally must be made by the account owner's tax return due date, NOT including extensions.
- Contributions made between January 1 and April 15 for the preceding year (prior-year contributions) require a written irrevocable election by the account owner.
- The IRA administrator is responsible for obtaining the written election, otherwise the contributions should be deemed current year.



## Traditional and Roth IRA Account Statement

- Financial organizations administering Traditional and Roth IRAs generally must provide an account statement to IRA owners by May 31st each year to report the prior year's contribution activity.
- Form 5498 reports Traditional IRA, SEP plan, SIMPLE IRA plan and Roth IRA contributions to the IRS.
- The accounts FMV must also be reported on this form.
- Deadline for filing is May 31st following the year the report applies.

# Argent | Withholding Notice

- Financial organizations must provide IRA owners with a notice of their right to waive withholding on IRA distributions or to have more than the minimum amount withheld.
- If an IRA owner is taking distributions quarterly or more frequently, the withholding notice only needs to be provided once per year, at a reasonable time before the first payment each year.
- If the IRA owner is taking distributions less frequently than quarterly, the withholding notice must be provided to the IRA owner no more than six months preceding each distribution.
- Best practices suggest providing the notice in December to IRA owners who take quarterly or more frequent distributions and IRA owners who take an annual distribution in the first half of each year.
- To cover IRA owners who take semi-annual distributions and annual distributions in the second half of each year, the notice should be sent in June as well.
- IRA owners should use the new Form W-4R to change their withholding elections.



# TRUST NOTICES & ACCOUNTING

# Argent | Notice of Trust (to beneficiaries)

- **Requirements vary by state.**
- **Notice or letter regarding a new trust or a change in trustees, informing the beneficiaries of the (now) irrevocable trust, marshalling of assets and ability to make any distributions within a reasonable time**
- **Notice should be provided to:**
  - Current beneficiaries per the terms of the trust document
  - Qualified beneficiaries (those who would become current beneficiaries upon the death of the current beneficiary or if the trust were to terminate now)
- **Notice should include:**
  - Basic information about the trust
  - Trustee's name, address and contact information
  - Beneficiary's right to request a copy of the trust document
  - Deadline for challenging the funding of a new trust
- **Notice should be sent 30 – 60 days after appointment as trustee**

# Argent | Notice Concerning Fiduciary Relationship

- **Internal Revenue Service requires Form 56 to notify the IRS of a new or change in a fiduciary relationship**
- **Fiduciary relationships include:**
  - Executor / Personal Representative
  - Trustee
  - Guardian / Conservator
- **Types of taxes and federal tax forms that will be paid/filed**
- **Several states require trustees to notify the county of jurisdiction of a new or change in fiduciary relationship. They may require the following:**
  - Copy of the trust document
  - Accounting of Assets and Liabilities

# Argent | Trustee's Duty to Provide Accountings

- **Trust document provisions govern; requirements vary by state**
- **In most states, trustees should at least annually provide beneficiaries then entitled to receive income from the trust a current accounting, which should include:**
  - receipts and disbursements
  - assets and liabilities
  - trustee's compensation
  - description of any agents hired
- **Several states do not define "accountings" or "duty to account".**
- **Trustees may be required to keep Current income beneficiaries as well as Qualified Beneficiaries reasonably informed of the trust and its administration.**
- **Some states limit the time in which a beneficiary can file a claim against the trustee after receiving a trust accounting (e.g., 6 months)**



# FDIC INSURANCE

# Argent | FDIC Insurance Disclosures

- Non-Deposit Investment Products are not insured by the FDIC, even if purchased from an FDIC-Insured Bank.
- Sales representatives, whether employees of the bank or third-party securities broker/dealers or insurance companies must disclose orally or in writing whether the products are covered by FDIC Insurance.
- FDIC-Insured Banks must display a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation.
- Each sign shall include a statement that insured deposits are backed by the full faith and credit of the United States Government.



# FDIC Insurance Coverage (current rule)

- **\$250,000 per depositor, per institution and per ownership category**
- **Categories and their respective limits (prior to April 1, 2024)**

Single account owner	\$250,000
Joint account owners	\$250,000 per co-owner
Certain Retirement Accounts (e.g. IRAs)	\$250,000 per owner
Revocable Trust Accounts	\$250,000 per depositor or beneficiary, not to exceed 5
Irrevocable Trusts	\$250,000 per unique beneficiary, not to exceed 5
Irrevocable Trust with IDI as Trustee	\$250,000 per unique beneficiary, not to exceed 5
Corporations, LLCs, etc	\$250,000 per entity



# FDIC Insurance Coverage for Trusts (new rule)

- **Effective April 1, 2024**
- **Revocable Trusts and Irrevocable Trusts are merged into one category**
  - Informal Trusts (Totten trusts, POD accounts and in-trust-for accounts)
  - Formal Revocable Trusts
  - Irrevocable Trusts (by written agreement or statute)
  - NOT INCLUDED - Irrevocable Trusts with an IDI as Trustee
- **Coverage**
  - \$250,000 per beneficiary, up to five beneficiaries (\$1,250,000)

# Argent | FDIC Insurance Coverage for Trusts (new rule)

- **Eligible Trust Beneficiaries**

- Natural persons, charitable organizations & non-profit entities named as beneficiaries (current, primary beneficiaries only)
- Excludes beneficiaries that only would obtain an interest in a trust if one or more beneficiaries are deceased (i.e., contingent beneficiaries)

- **Grantor Retained Interest Trusts**

- Review of trust agreement may be required in order to determine “eligible” beneficiaries (i.e., not contingent beneficiaries)

- **Future Trusts (Following Trusts)**

- Not Eligible Beneficiaries



# FDIC Insurance Coverage for Trusts (new rule)

- **Informal Trusts (e.g., Payable on Death)**
  - Beneficiary must be named
  - Who is the eligible beneficiary?
- **Multiple Beneficiaries Across Multiple Trust Accounts**
  - Full coverage applied to each trust or per beneficiary?
- **The title of a formal trust must include terminology sufficient to identify the account as a trust or must otherwise be identified as a testamentary trust in the account records of the IDI**

▶ **FDIC Privacy Handbook**

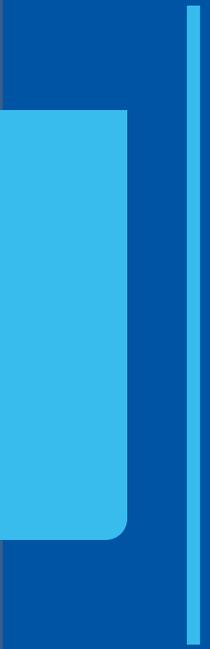
<https://www.fdic.gov/regulations/examinations/financialprivacy/handbook/index.html>

▶ **IRA distribution rules IRS Code Section 401(a)(9)**

<https://www.irs.gov/pub/irs-drop/rr-08-40.pdf>

▶ **FDIC Resources (trust accounts)**

<https://www.fdic.gov/resources/deposit-insurance/trust-accounts/>



Questions?

---