Specimen Investment Policy Statement for Life Insurance

DRAFTING GUIDE FOR an **I**nvestment **P**olicy **S**tatement

A key responsibility of a trustee of a trust that owns life insurance is to have a disciplined investment process that seeks the greatest return for the least amount of risk. In order to help minimize potential trustee liability with respect to trust owned life insurance, it is advisable that a trustee develop an investment policy statement (**IPS**) for the purpose of documenting this process. At a minimum, the IPS should cover the following:

- Duties and responsibilities of the trustee with respect to life insurance held by the trust
  - Including sending out Crummey notices when premium gifts are made to the trust
- The purpose for coverage (including amount of death benefit needed) and a statement of objectives
  - This should periodically be updated, as the goals of the amount needed may change over time.
- Risk and return tolerance
- Type of coverage to be help by the trust, based on the designated risk tolerance
  - If variable life is deemed to be an appropriate type of coverage, the type of permissible investments in the underlying sub-accounts should be spelled out (e.g., all sub-accounts with the exception of those investing primarily in high growth stocks and international funds.)
- Ratings required of the life insurance companies
- Premium level to adhere to, based on grantor's gifting limitations and prudent policy assumptions
- And most importantly, a commitment to regularly review each policy
  - Annually obtain a current policy projection and compare the performance to the original illustration. Determine whether the planned premiums are adequate to support the policy.
  - If the policy is variable, annually review the current investments to determine suitability.
  - Periodically determine if the health of the insured(s) has improved, which could result in cheaper coverage.
  - If the policy pays dividends, ensure that the dividends are being used to most effectively benefit the trust beneficiaries.
  - Periodically do a comparative evaluation to determine if there are new policies available that would result in either lower premiums for the same coverage or increased coverage for the same premiums, without adversely affecting the desired risk tolerance.

Attached is a specimen investment policy statement for the John and Jane Sample Trust.

Specimen Investment Policy Statement
For Life Insurance

Purpose of Statement

The purpose of this statement is to delineate the investment and management policy and guidelines with regard to any life insurance owned by the John and Jane Sample Irrevocable Life Insurance Trust ["Trust"]. This policy statement is intended to provide a foundation from which to oversee the management of life insurance in a prudent manner.

Fiduciary Standards

The trustee of the Trust is a fiduciary, and as such, has a duty to:

- Invest and manage trust owned life insurance as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust.
- Exercise reasonable care, skill, and caution in fulfilling its fiduciary duties.

Purpose of Life Insurance

The purpose of any life insurance owned by the Trust is to (1) provide liquidity for the payment of the Federal and state death taxes and administration costs of the Trust grantors, and (2) enhance the amount of their estate passing to their heirs (the Trust beneficiaries).

At the time this statement was created, it was determined by the grantors that $10 million of life insurance coverage is sufficient to meet the above goals.

Life Insurance Company Requirements

In order to ensure that the life insurance company or companies have sufficient claims paying ability, any life insurance products owned by the Trust must be provided by a life insurance company with an A.M. Best Company rating of "A" or better.

Types of Permissible Life Insurance Products

It has been determined that a moderate risk and return tolerance is most appropriate for this Trust. Therefore, any type of life insurance product, with the exception of Variable Life, Variable Whole Life, and Variable Universal Life, may be owned by the Trust. This includes, but is not limited to, Term Life, Whole Life, Universal Life, and Guaranteed Universal Life.

Premiums

It is the stated desire of the grantors to keep premium gifts within their existing annual exclusions. Although split gifting is possible and would enable each grantor to use his or her annual exclusion for each Crummey beneficiary of the Trust, it is the desire of the grantors to limit premium gifts to the annual exclusions of just one grantor. This will ensure that upon the death of the first grantor, premium gifts needed to sustain the life insurance policies owned by the Trust will not exceed the available annual exclusions of the surviving grantor.

In keeping with the above stated moderate risk and return tolerance, any life insurance product purchased or owned by the Trust shall be based upon prudent policy assumptions. In determining the appropriate amount of annual premiums necessary to sustain the policies, it is generally not appropriate to illustrate current policy crediting or dividend rates over a long period of time. In general, premiums should be based upon ten year historical crediting or dividend rates.

Duties and Responsibilities of the Trustee

Duties and responsibilities of the trustee with respect to life insurance held by the Trust include, but are not limited to, the following:

- Promptly sending out Crummey notices to each eligible Trust beneficiary whenever premium gifts are made to the Trust
- Periodically ensuring that the purposes for the life insurance or the amount needed have not changed
- Annually ensuring that the ratings of the insurance carriers involved continue to meet the stated requirement of an A.M. Best Company of “A” or better.
- Annually obtaining a current policy projection for each policy owned by the Trust and comparing the performance to the original illustration in order to determine whether the scheduled planned premiums are adequate to support the policy
- Periodically determining if the health of the insured(s) has improved or smoking status has changed, for the purpose of determining whether cheaper coverage may be available as a result
- If a policy pays dividends, ensuring that the dividends are being used to most effectively benefit the trust beneficiaries
- Periodically doing a comparative evaluation for each Trust owned policy to determine if there are new policies available that would result in either lower premiums for the same coverage or increased coverage for the same premiums, without adversely affecting the desired moderate risk and return tolerance

Delegation of Life Insurance Duties and Responsibilities

The trustee of the Trust may delegate to or employ an insurance advisor for performing any or all of the duties and responsibilities set out above. The trustee shall exercise reasonable care, skill, and caution in selecting the insurance advisor. Ideally, the insurance advisor should be independent and represent multiple carriers. In addition, the insurance advisor should be properly qualified and ideally should possess industry credentials such as the chartered life underwriter (CLU).

The trustee shall periodically review the insurance advisor’s actions in order to monitor the advisor’s performance and compliance with the terms of the delegation. In performing a delegated function, an advisor owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.