DENVER ESTATE PLANNING COUNCIL

Understanding Trustee Liability with the PTC Framework

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Presented by Precision Brokers

What We'll Cover

Today's agenda

1. **Common Claims and Trusts Structures**
   Roles, responsibilities & personal liability
2. **Risk Management Considerations**
   Fiduciary exposure & forms of protection
3. **Cyber Liability as a Fiduciary Risk**
   2025 trends, controls & your next steps
4. **Coverage & Next Steps**
   Claims intent, action items & Q&A

Coverage Intention & Recent Claims

What the Policy Covers

- Claims of negligence for the rendering trustee services across all roles
- Oversight of professionals
- Defense in the event of a claim
- Applicable damages

Risk management

- Family member trustee
- Onboarding
- Property management

Common Claim Categories

- Trustee Capacity
- Beneficiary Reporting
- Cyber Liability
- Fee Disputes
- Family Business Disputes

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Trustee Responsibilities: Traditional & Delegated

The trustee has a legally enforceable fiduciary duty to manage assets for beneficiaries per the trust. The three core duties of the trustee include: **invest, distribute, and administer.** ***With these roles comes personal liability.***

INVEST	DISTRIBUTE	ADMINISTER
Determine investment policy	Determine grantor’s intent	Maintain books & records
Select investment advisors	Communicate with beneficiary	Provide beneficiary accountings
Monitor investment activities	Review distribution requests	Pay bills, taxes, etc.

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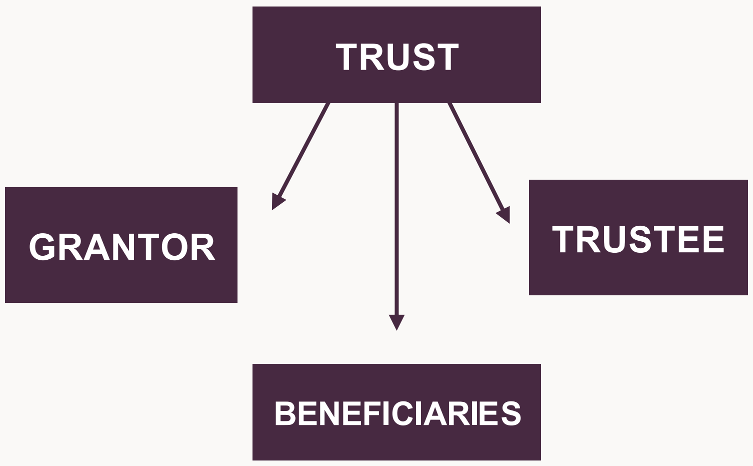
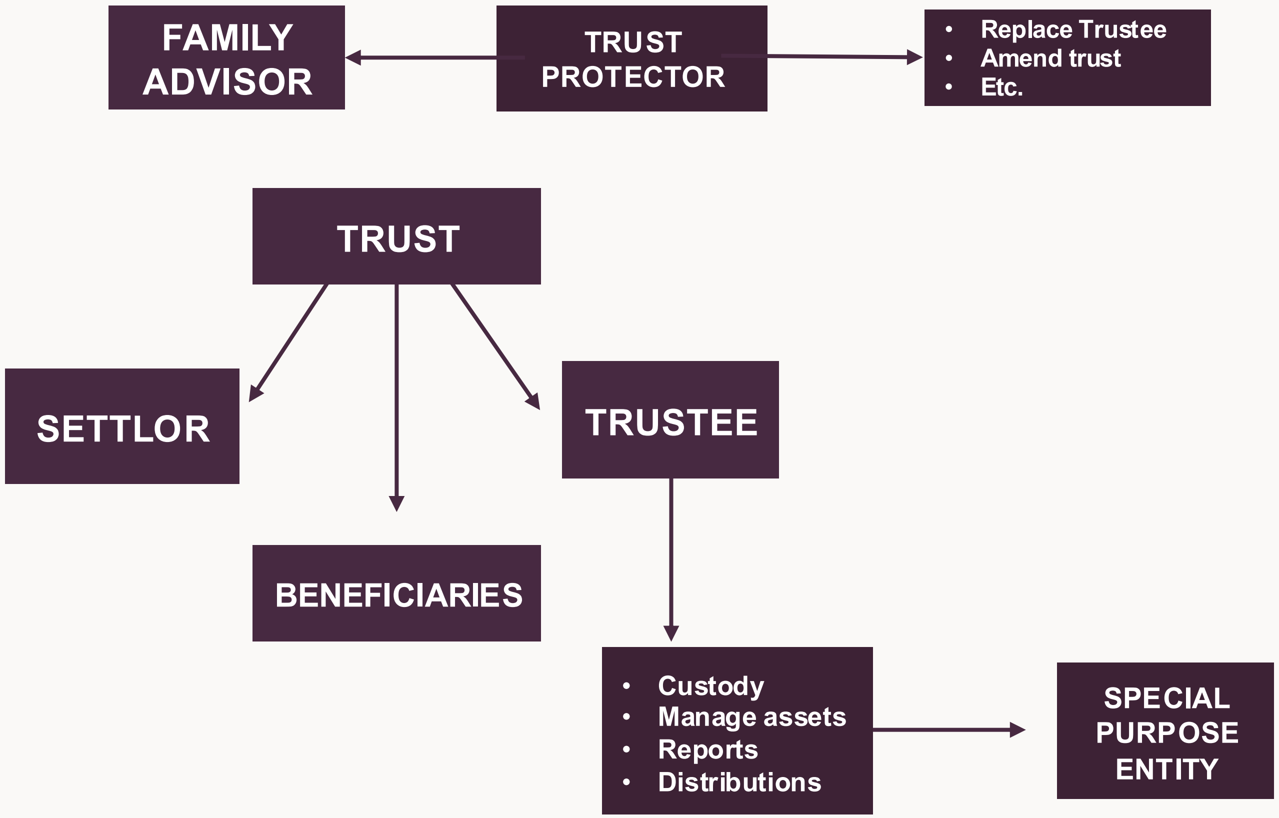
Directed Trust – Subcontracting Duties

TRADITIONAL TRUSTS

VS

DIRECTED TRUSTS





- Bifurcated roles and responsibilities
- Each state defines roles differently regarding fiduciary status
- Roles change liability (e.g., trust protector)
- New roles created and liability may be unknown

Stay in your lane or you risk unintended liability

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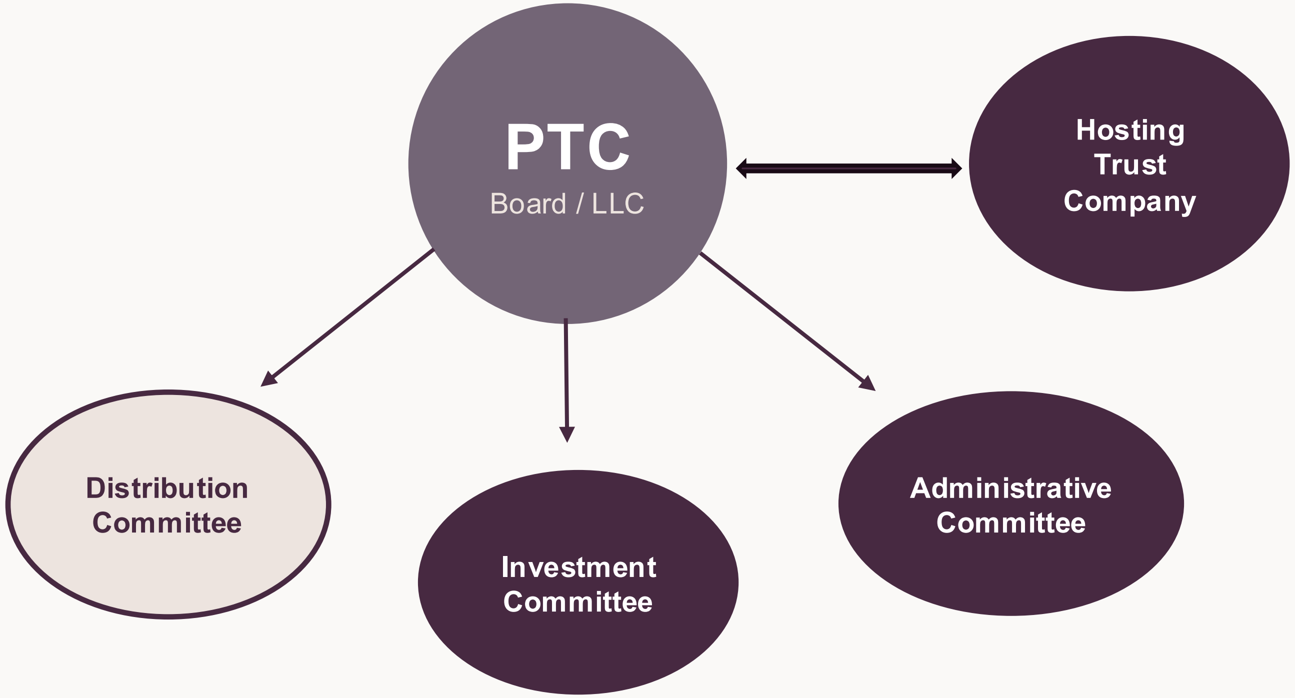
PTC Structure: Institutionalization Adds Limited Entity Protection



Hosting TC Provides:

- Regulatory situs requirements
- Administrative services

PTC May Outsource:

- Investment / Legal / CPA
- Trust Protector / ETC

Roles and Responsibilities:

- Managers delegate trust services to committees
- Committees decide or delegate services to outsourced providers

PTC risk continuum

More risk = more services inhouse including employees

Family Business, Asset Management, Family members serving outside of their expertise

Lesser risk =
more outsourced services

No employees

Trust administration, Investment, Independent directors

Why is this important?

Understanding the risk management puzzle

Telling the story to underwriters which impacts premium.

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Forms of Protection for Trustees

Indemnification

Pros:

• Acknowledgement the grantor wants the trustee to have support

Cons:

• May not be in the trust document
• Plaintiffs may want to prevent indemnification for defense costs
• Judge may need to rule

Professional Org. Insurance
(law firm, CPA, RIA, etc.)

Pros:

• Depending on firm and carrier there may be some coverage

Cons:

• Devil in the details (definition of professional service)
• Ancillary service
• exclusionary language (LLC/SPV)
• Large deductibles

Trustee Liability Insurance

Pros:

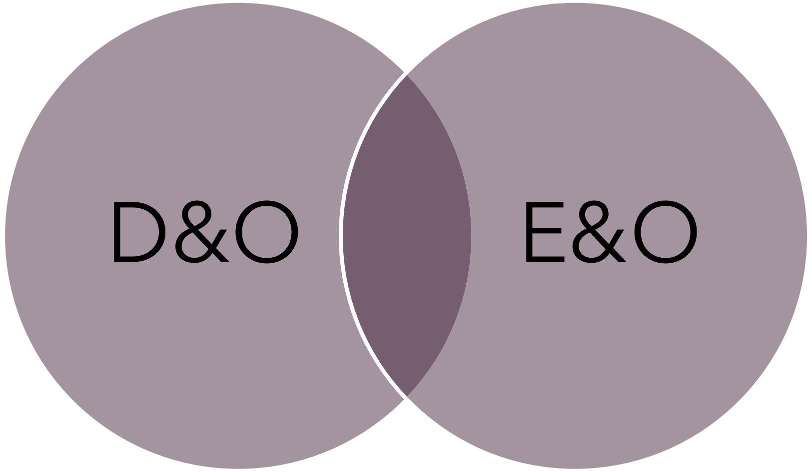
• Transfers risk to a third party
• Competent counsel available
• Claim management included

Cons:

• Who pays for the insurance?

Directors and Officers Liability and Errors and Omissions – Differences and Overlap

D&O insurance covers legal costs and settlements from **claims related to business decisions** such as regulatory issues, shareholder lawsuits, financial misstatements, client/vendor commitments, investment decisions, and bankruptcy.



E&O covers defense and settlement for errors while carrying our professional services such **as trustee, family office service provider, fund management**, etc.

Examples of where allegations could name **dual capacities**: Serving on a board of directors or members of LLC’s that are acting as a trustee capacities, choosing service providers.

What is Cyber Liability Insurance?

Covers costs from data breaches and cyberattacks. More than a policy — **it’s a service.**

Financial Costs Covered

- Lost income during a cyber event
- Customer breach notification costs
- Data recovery and system repair
- Regulatory fines and defense costs

Services Included

- Forensic investigation
- Litigation expenses
- Regulatory defense expenses
- Crisis management & PR support
- System testing
- Cyber extortion response
- Wire fraud / social engineering

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Cyber Liability: 2025 Loss Trends

Claims affecting trustees and family offices

73%	9%	6%	4%
Data Breaches & Incident Response	Privacy Liability Claims	Cyber Extortion & Ransomware	Business Interruption

Key Exposures for Trustees:

- Wire fraud via business email compromise
- Ransomware targeting trust company systems
- Data breaches involving beneficiary information
- Vendor breaches (administrators, law firms, accounting firms)

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Risk Management Focus

What underwriters are watching most closely

Phishing & Business email compromise

Business email compromise and phishing now drive the majority of cyber insurance losses. Criminals impersonate executives and vendors to redirect funds.

AI-Powered Attacks

Criminals are using artificial intelligence and domain spoofing to craft convincing social engineering attacks targeting organizations that control capital.

Identity & Access

Underwriters now require evidence of centralized identity management. Without it, meaningful coverage may not be available at all.

Underwriting is becoming increasingly scrutinizing — controls now determine whether meaningful coverage is available.

Email: The #1 Loss Driver

Email continues to be the primary attack vector

Three concepts every fiduciary must understand:

SEG — Secure Email Gateway

Sits in front of your email system and **blocks malicious messages** before they reach users. Designed to stop phishing, spoofing, ransomware, and business email compromise at the front end.

EDR — Endpoint Detection & Response

Monitors laptops, desktops, and servers for suspicious behavior. **Enables rapid response actions** such as isolating compromised devices or stopping malicious processes.

MDR — Managed Detection & Response

Adds **24/7 human oversight** by a third-party security team that monitors systems 24/7, investigates alerts, and actively responds to threats on your behalf.

Proactive Cybersecurity Strategy

Third-Party Risk Management

Organizations must ensure all vendors adhere to cybersecurity standards. Vendor breaches are increasingly scrutinized at renewal.

Multi-Factor Authentication & Zero Trust Architecture

Multi-factor authentication and zero trust models are increasingly mandated for policy approval. These aren't optional anymore.

Cyber Hygiene + Incident Response Planning

Companies with comprehensive incident response plans consistently receive better policy terms.

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Cyber Takeaways

1. **Stay current** — bad actors adapt quickly, and you should too
2. **Engage a qualified IT consultant**
3. **Create and follow risk management protocols**
4. **Develop a written incident response plan**

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Q&A

Questions? We're here to help.

Specializing in risk management for trustees,
trust companies & family offices.

Get in Touch

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