Beneficiary Review

American General
Life Companies

American General Life Insurance Company
The United States Life Insurance Company in the City of New York

FOR PRODUCER USE ONLY — NOT FOR DISSEMINATION TO THE PUBLIC.

This training guide is intended for use by licensed insurance producers of American General Life Companies (American General) and their affiliates.

It is available to licensed insurance producers with the understanding that American General, its subsidiaries, affiliates, representatives, agents, or employees are not engaged in rendering legal, accounting, or other professional services.

This guide is not intended to provide estate planning, financial planning, or legal or tax advice. If legal, tax, accounting, or other professional services or advice is needed, the services of a competent professional should be sought.

Table of Contents

Purpose of the beneficiary review 4

Self-contained producer program 4

Beneficiary review definition 5

How this guide is structured 5

Beneficiary Review

How to identify life insurance sales opportunities 6

Beneficiary designations 7

Hot buttons 8

General characteristics of common beneficiary designations 8

General Notes

Distributions by will 9

Distributions by trust 10

Distributions by joint tenancy 11

Guide to working with other professionals 12

Concepts related to beneficiary designations 13

Where to go for additional information 17

Appendices

Client scenarios 18

Specimen beneficiary designation 24

Specimen letter to client explaining beneficiary review 25

Marketing collateral 26

Purpose of the beneficiary review

The purpose of this producer guide is to assist you, the licensed life insurance producer, to deliver a unique and critical service to current and prospective insurance clients: ***The Beneficiary Review****.*

For the client, the review is an opportunity to match current beneficiary designations with his/her desired disposition of assets:

– Are all assets going to the desired person(s)? In the desired manner?

– Have "worst case" contingencies been considered and covered? Is the client sure?

After a thorough review of this guide, you should be capable of helping clients answer these questions.

For you, the producer, the process of collecting data about client assets and their disposition will help you identify insurance shortcomings, and, in many cases, point to the need for a more detailed and separate insurance review and the potential for a new insurance sale.

It should lead to discussions such as:

1. Do current insurance products continue to meet the client's needs?
2. Do current products possess the necessary features (for example, a guaranteed death benefit) desired by the client?
3. Is the product type appropriate to meet client needs? (term, UL, etc.)
4. Is the insurance amount adequate? (An insurance needs analysis will help determine amounts needed.)
5. Are there health insurance gaps or needs which may be solved with American General health insurance products?
6. Is there a need which may be filled by annuities, either deferred or immediate?
7. And, are there other individuals within the client's sphere of influence who could benefit from a beneficiary review, who may also have insurance needs?

Answering these questions should lead you to new insurance sales opportunities and the chance to enhance client trust by demonstrating your ability to offer competent and comprehensive life insurance services.

Self-contained producer program

Unlike some insurance-related programs, the beneficiary review is designed so that you – the producer – can complete the entire review independently, without home office consultation or involvement.

That is because the beneficiary review process is straightforward. And, beneficiary designations should reflect the *client's* desires for asset disposition. Your primary job is to assist the client in matching what beneficiary designations currently exist with what he or she desires.

Further, this guide and the accompanying data form give you the platform and knowledge to take client data, make observations, and, if indicated, assist clients in making changes to beneficiary designations.

Keep the process simple and you will be successful.

Beneficiary review definition

At the outset, it should be made clear what the beneficiary review is not. It is **not:**

1. Comprehensive estate planning
2. Financial planning
3. Investment advice
4. Legal, accounting, or tax advice

The beneficiary review is simply defined as:
The identification of current beneficiary designations and other methods of property disposition, matching those against the client's disposition objectives; and, if desired, assisting the client in completion of beneficiary changes as he or she directs; and, when appropriate, referring him/her to other professional advisors.

Key to this process is that the *client* is always in control of his/her asset disposition.

Your role is to simply make the client aware of his/her current disposition plan and help them determine if their disposition plan meets their goals. Then, if needed and desired, provide referrals to the appropriate professional advisors.

Data collection: the key to great relationships
It has been said that thorough and thoughtful data collection is the key to successfully identifying and solving insurance challenges. This is emphatically true if you wish to conduct an effective beneficiary review, and identify life insurance sales opportunities in the process.

The beneficiary review data form requires that the client provide certain basic asset information such as type of asset, approximate value, asset titling and beneficiary designation.

This information is essential for determining whether your client has a coordinated disposition plan *and* whether this plan meets your client's wishes. Your ability to elicit this data is also key to determining whether there is an insurance need, how you can solve that need, and whether you can obtain qualified referrals from the client.

How this guide is structured

Beneficiary Review *(pages 6-8)*	**General Notes** *(pages 9-17)*	**Appendices** *(pages 18-26)*
Defines the beneficiary review process, how to identify insurance sales opportunities with the beneficiary review, and includes a table showing the general characteristics of most common beneficiary designations	Discussion of other methods of property disposition, including distribution by will, trusts, and joint tenancy, a guide for working with other professionals, a short description of concepts related to beneficiary designations, and instructions for accessing additional information on these subjects	Includes three case scenarios demonstrating how the beneficiary review may be used in specific situations, specimen life insurance beneficiary designations, and a specimen letter which may be used to describe the beneficiary review to the client

How to identify the life insurance sales opportunities

A review of the data form may reveal sales opportunities that may arise in the course of completing the beneficiary review. Below are some of the questions to ask of the client as you complete the data form:

Data Form Trigger	Question
Policy issue date	*"Have you conducted a comprehensive insurance review since you purchased your policy?"* (If no, it is suggested that you help client complete policy review process – see footnote #1, page 7.)
Type of policy (term, UL, etc)	*"When was the last time that you reviewed your policy type? Wouldn't it make sense to review this?"* (If yes, determine if current insurance type is appropriate; i.e. term for temporary needs and universal life for permanent or cash accumulation needs.)
Current amount of insurance	*"How did you arrive at this amount? Would you like for me to conduct an analysis to determine the right amount based on your circumstances?"* (If yes, refer to the guide section titled "Where to go for additional information" for appropriate needs analysis tools.)
Total assets **$5 million per person or** **$10 million per couple**	*"Have you considered whether you will be paying estate tax? The tax may be as high as 35 percent in 2012."* Indicates possible need for life insurance to pay estate settlement costs. If you are not familiar with this area, consult your upline or call advanced sales for assistance. Please have all data available.
Large qualified plan or IRA balance	*"Are you planning to spend these assets in retirement?"* **YES:** Consider purchase of deferred or immediate annuities by the IRA or the plan, if permitted. **NO:** Explain that asset may be fully income-taxed when withdrawn. Consider the possible use of a current plan distribution to purchase life insurance to replace the IRA or qualified plan asset.
Any designation or disposition to charitable organizations	*"Have you considered leveraging the value of your gifts to your charity? Would you be interested in providing more for every dollar you contribute?"* The death benefit of a life insurance policy owned by a charity multiplies the value of a charitable gift when the charitable gift is used to pay life insurance premiums.

In almost all situations, you can easily identify and present a life insurance solution, when appropriate.

In addition, where it is clear that the client could benefit from the advantages of annuity ownership, either qualified or non-qualified, you should discuss annuity benefits as part of his/her overall asset disposition.

In summary, focus on collecting all the required data on the forms. As you review each area of the form with the client, ask the suggested questions.

It may also be helpful to your review if you take notes as your client responds to each question; the data form provides ample space for notes.

Once you have completed the beneficiary review, you may then prepare any life insurance, annuity, or accident and health insurance recommendations, where appropriate.[1]

Beneficiary designations

The beneficiary is the person named in a life insurance policy application or other financial product to receive the insurance benefit or other balance upon the death of the insured/account balance holder. In most cases, beneficiary designations allow the beneficiary to collect proceeds or balances directly from the financial institution and without the expense or delay of probate, which may delay distributions by a year or more. As we shall see, beneficiary designations encompass a good deal of financial products as well as life insurance.

What is encompassed

Beneficiary designations may be used to pass any and all of the balances from the financial accounts or products and assets listed below. With regard to qualified retirement plans, do not forget to consider any qualified plan assets held by a former employer. The following products may be passed with a beneficiary designation:

- Life insurance – individual and group
- Annuities
- Individual Retirement Accounts (IRAs) – traditional and Roth
- Section 401(k) qualified retirement plans
- Profit sharing plans (including ESOPs)
- Defined contribution and defined benefit pension plans
- Certificates of Deposit (CDs) and bank accounts
- Stock brokerage accounts
- Bonds – commercial and government
- Mutual funds – all types
- Money market funds
- Medical insurance benefits
- Disability and long term care insurance benefits
- Some accident and health insurance plans including critical illness, and hospital indemnity plan benefits
- Deferred compensation and salary continuation plans

[1] Please read American General's Replacement Policies and Guidelines, form AGLC0418, prior to any life insurance review or making a recommendation for replacement of an existing life insurance policy. Refer to the Compliance section of our producer business website for this form.

Hot buttons

Hot buttons are areas of significant concern where a misdirected designation may cause great distress or unintended consequences for the client. Here are some of these concerns:

1. **Life insurance/other assets payable to the "estate of the insured."** Depending upon the client's factual situation, this may not be an efficient designation. Proceeds would be included in the probate estate of the insured; thus, they would be subject to probate expenses before being distributed to the estate beneficiaries.
2. **Insured has divorced since insurance was purchased.** Proceeds may still be payable to a former spouse.
3. **Re-marriage**. The same issues as divorce emerge and re-marriage may create others. For example, who are the contingent beneficiaries on a life policy? The insured's children, children of the current marriage, or someone else? Be sure that the intended parties are designated.
4. **Planning if the beneficiary predeceases the insured.** This is why a contingent beneficiary is strongly recommended in all situations. If no contingent beneficiary has been named it is likely that proceeds would become payable to the insured's estate.
5. **Testamentary trust is named.** A testamentary trust is created by the will upon the death of the insured. Thus, it does not exist until the will has been probated, which may be some length of time. This may cause delay in distributing life insurance proceeds. If the will and trust are outdated and pass assets to unintended parties, this aggravates an already inefficient designation. The clients should seek legal advice with regard to any questions they may have regarding how a trust may be established or how a trust may be applicable to their factual situation.

Beneficiary Designation	General Characteristics
Estate	May have potential to cause probate delay and administrative expense.
Spouse	May be simple and direct, should be reviewed upon divorce, offers no money direction to spouse.
Children of the insured	May be simple and direct, may be individual names of children or children of the insured. (If minors, court appointed guardian may be required.)
Children's guardian	May be unnecessary when children reach majority, guardian must be willing and available, may not be appointed by court.
Contingent beneficiary	Plans for the potential death of the primary beneficiary before the insured's death.
Irrevocable	Irrevocable beneficiary designation prevents policy owner from changing many aspects of policy (e.g., policy loans, surrenders) without benefit consent. May be required by a court order or as a business requirement. See section on "Revocable v. Irrevocable" beneficiaries that follows on Page 12.
Per capita	Useful where insured wishes to pay benefits to only one level of beneficiary (e.g. children but not grandchildren). See Page 13.
Per capita with Rights of Representation	Useful where insured wishes to pay benefit to one level of beneficiary (e.g. children) and in the event some but not all children predecease insured, children of insured's deceased children will divide child's share at insured's death. See Page 13.
Per stirpes	Covers possibility of death of a primary beneficiary and desire to pass benefit on to primary's children (insured's grandchildren).
Trust	Trust may provide for many contingencies and specific client objectives. May require initial drafting expense and ongoing expenses.

This section contains a brief discussion of various methods of property disposition, a guide for working with other professional advisors, and descriptions of concepts related to beneficiary designations.

Distributions by will

Individual wishes to dispose of property at death. It is, of course, not operable until the death of an individual, and, it may be changed at any time prior to death.

In addition to indicating who is to receive property, the will names an executor. The executor carries out the directions of the will and disposes of the property according to the provisions of the will. The executor's job ends after all distributions have been made, administration is complete, and the court issues an order closing the estate.

If the will creates a trust, a trustee is also be named.

Generally, any person over age 18 and of sound mind may create a will. It generally is in writing, is signed by the testator (person making the will), and is witnessed by two or more persons. States have differing legal requirements for wills. Legal counsel should be consulted for details regarding the state statutory and common law requirements for wills in the client's state.

A will is a legal document; therefore, it is essential that any will and other legal document supporting the will be written by legal counsel, and any advice regarding property disposition be offered only by legal counsel.

Hot buttons

Hot buttons are areas of significant concern which may have unintended consequences, if not identified and corrected. Here are the essential hot buttons with regard to wills:

1. **Client has no will.**
   Without a will, your client's assets will pass according to his/her state intestacy laws.[2] A will allows a client to *control* the passing of property to any desired relative, friend or charitable organization. Why not take advantage of what the law allows and pass property on as the client would like, not a standard established by law?

2. **Client has minor children and no will.**
   Even worse is having minor children and no will because, generally, the state will appoint the child's guardian and the conservator of the child's property. Furthermore, in most states, the age of majority is 18; thus a child may inherit a large sum of money at a time when he/she has little or no experience managing money. A will allows the client to appoint guardians, and, with a trust, provide asset management for the children for many years after a parent's death. When such a trust is created by the will and comes into being at the probate of the will it is known as a "testamentary trust."

3. **Client has a simple will; not recently reviewed.**
   We all know that "life events" can substantially alter the dispositive desires of the client. For example, a spouse's death, client's divorce, children reaching majority, new marriage (perhaps with stepchildren), and client change of residence are all events which require a review of the will and other arrangements.

[2] The applicable state statute determines who gets what.

For example, if your client recently moved from Illinois (a common law state) to Arizona (a community property state), it would be *strongly advisable* that the client confer with Arizona legal counsel to determine if any will changes should be considered.

Another example might be when a client has recently remarried a new spouse with two grown children, while the client has none. Client's current will passes assets to his nieces and nephews. Spouse has no will. In this situation, it is strongly advised that the client consult with legal counsel with regard to considering distributions by will to his new spouse, and upon her death, distributing client's assets equally to nieces, nephews, and, if now desired, to stepchildren. Furthermore, the spouse should be advised to consult with legal counsel with regard to creating a will that expresses her desires for disposition of all of her assets.

4. **Client and spouse have current wills, but most property is in joint tenancy or passes by beneficiary.**
   It is quite possible that the client has a will that expresses his/her intentions but covers very little property.

   For example, James and Joan currently own a residence, bank accounts and rental real estate in joint tenancy. James owns an IRA, a 401(k) balance and life insurance, and has designated Joan as the beneficiary of these assets. His remaining assets are his car and personal effects. *Therefore only his car and personal effects will be distributed by will. Is this his intention?*

   Completion of the Beneficiary Review Financial Journal (AGLC103200) data form by the client should help him/her identify potential problems such as the above and carefully consider what their beneficiary objectives are and if those objectives are being met by their current beneficiary designations.

Distributions by trust

Definition and operation

A trust is a fiduciary relationship in which property is held by one party for the benefit of one or more persons. The person who creates the trust is commonly known as the settler, trustor or grantor. The person who will benefit from the trust is commonly known as the beneficiary.

A grantor normally executes a written trust document and transfers property to the person or organization who will be responsible for administering the terms of the trust, known as the trustee.

State law controls the creation, operation and termination of a trust. Often, the grantor specifies in the trust document the state whose laws are applied to the operation and termination of the trust.

A trust may generally have any terms as long as they are not illegal or contrary to public policy. It may provide, for example, for the management of property, accumulation or distribution of income to trust beneficiaries, distributions of the trust assets (the trust corpus), or allow withdrawal powers for beneficiaries.

For example, Bill decides to create a trust for the benefit of his wife, Louise. Bill makes his life insurance payable to the trust. Louise is the trust beneficiary. Bill's close friend, James, is the trustee of the trust.

Upon Bill's death, James collects the life insurance proceeds, and invests them in accordance with the terms of the trust. The trust requires the payment of trust income to Louise for her life, and upon her death, distributes the investments held by the trust (the trust corpus) to their children. Louise receives lifetime income from the trust and professional investment management, and their children are ensured of obtaining a legacy from their parents.

Revocable and irrevocable trusts

As the name implies, a revocable trust allows the grantor to revoke the trust up until the moment of his/her death. At the moment of death, the trust becomes irrevocable.

By contrast, an irrevocable trust, once in existence, cannot be changed. A common irrevocable trust used in larger estate plans is an irrevocable life insurance trust or ILIT. An irrevocable trust typically purchases life insurance on the grantor's life and is the policy owner and beneficiary.

An ILIT may be useful in larger estates where cash is needed to pay estate settlement costs and life insurance is determined to be a useful way of providing the cash.

Distribution by Joint Tenancy with Right of Survivorship (JTROS)

Joint tenancy with right of survivorship is a form of co-ownership for property. It determines how that property will pass upon the death of any joint tenant.

During life, joint tenants have an undivided right to the enjoyment of the property in question. When a joint tenant dies, the decedent's interest in the property passes to the remaining joint tenant or tenants.

Also, unless the joint tenants have made an agreement restricting transfer, each party may sell, transfer, or gift his or her interest during his or her life.

Tenancy by the entirety is similar to joint tenancy with right of survivorship but only between husband and wife, and is only recognized by certain states and the definition may vary slightly from state to state.

Generally, upon the death of either spouse, the deceased spouse's property interest is automatically transferred to the surviving spouse. Also, during life, one spouse may not terminate a tenancy by the entirety without the consent of the other spouse.

Joint tenancy has the advantage of creating an automatic transfer of a decedent's property interest at death. No additional documents are needed.

Guide to working with other professionals

If you are interested in working with local lawyers, accountants, and other professionals in your community, the beneficiary review offers a great opportunity to provide a service to their clients which is unique and non-threatening for their client relationships.

The chances are great that you will identify the need for legal, accounting, or other advice which is necessary for the client's disposition plan and therefore you are strongly encouraged to talk with other professionals in your community. This coordination will not only be beneficial to your client, but will also open opportunities for partnering/referrals between these professionals. It is likely that they have never been approached by a life insurance professional with this service.

In the long run, by working closely with other professional advisors, you will build a larger business base, grow professionally, and become the life insurance "go-to" advisor in your community.

As an insurance professional offering the beneficiary review, you will have the opportunity to refer legal work (such as wills and trusts) to local legal counsel. As mentioned previously, this creates a meaningful opportunity for you to develop excellent relationships with local legal counsel by referring business and demonstrating your insurance knowledge and expertise during the beneficiary review.

Where can you look for appropriate legal counsel? If you have not previously worked with legal counsel in your area, there are several methods by which you can gain an introduction. One is to contact your local estate planning council; these groups are often comprised of attorneys, trust officers, accountants, and insurance professionals and may be an excellent source for an attorney referral. Often, such a referral has worked successfully with other insurance professionals. This is a good indication. Also, the local bar association may have a referral service.

Another source might be other insurance professionals with whom you are acquainted. Referrals from your colleagues have probably worked successfully with another insurance professional. Saying it another way, they have shown the professionalism to respect an insurance professional's areas of expertise and, likewise, an insurance professional has shown respect for legal counsel and his/her legal recommendations.

Trust officers may also be an excellent source for finding attorneys active and competent in estate planning.

You should meet him/her to become acquainted, suggesting that your services (the beneficiary review) may be a valuable added service for his/her clients, and, more importantly, you are in need of competent legal counsel to refer legal business which results from the beneficiary review.

Moreover, you will procure vital client data and determine the goals of your client, and thus save counsel's time and energy to concentrate on the client's legal needs. Your goal in this initial approach is to determine whether or not counsel's background, training, disposition, personality, and other factors fit your mode of doing business, and whether counsel would respect your expertise (just as you would his or hers).

For example, an individual who stated that he/she did not "believe in life insurance" would certainly not be an ideal professional with whom to work. Worse would be the attorney who held himself/herself out as a life insurance expert but had no professional qualifications, experience or designations to back up such a claim.

On the other hand, a more favorable attitude might be indicated by this statement: "I understand the needs and purpose of life insurance and would be eager to work with a competent life insurance professional such as yourself and provide legal services to your clients."

In all events, remember that legal documents (such as wills and trusts) and legal advice always require the client's consultation with appropriate legal counsel. Anything less shortchanges the client and may put you in the position of practicing law without a license.

Concepts related to beneficiary designations

Revocable vs. irrevocable
Beneficiary designations may be revocable or irrevocable. A designation that may be changed whenever the policy owner wishes is said to be a revocable designation. The great majority of beneficiary designations are revocable. The policy owner may, however, choose to make the designation irrevocable. The person so named then has a vested right to the benefit payable upon the death of the insured. Whether revocable or irrevocable, the rights of the beneficiary normally terminate if the beneficiary predeceases the insured.

At one time, it was customary for creditors to request that they be designated irrevocable beneficiaries for life insurance intended for creditor protection. In present-day transactions, however, it is far more customary for the policy owner to assign a portion of the proceeds to the creditor via an approved assignment form from the insurance carrier rather than to use an irrevocable beneficiary designation.

Primary and contingent
The rights of the primary and contingent beneficiaries are normally determined as of the date of death of the insured. If, at that time, the primary beneficiary is living, then the rights of the contingent beneficiary are extinguished.

On the other hand, if the primary beneficiary is not living at the time of the insured's death, then the contingent beneficiary becomes entitled to the proceeds.

Per capita and per stirpes
Beneficiary designations can be "per capita" or "per stirpes." Per capita means "by the person" or individually, so persons are entitled to share proceeds on an individual basis.

An example of a per capita distribution would be the following: if three beneficiaries are named on a life insurance policy, each will receive one-third of the proceeds. If one of them dies, then each of the remaining two will receive one-half of the proceeds.

Per stirpes means "by right of representation" or "by the branch." A per stirpes designation modifies this to distribute the proceeds to the three beneficiaries, with the share of any deceased beneficiary going to that person's surviving children, if any.

Thus, in our previous example, assume that the deceased's beneficiary had a surviving child. Therefore, the proceeds would be divided one third and one third to each of the surviving beneficiaries, and the final one third to the child of the deceased beneficiary.

The choice between per capita and per stirpes is a personal one. The client should make it clear which he/she desires by using the proper language in a designation. Refer to the section in the appendix which shows examples of commonly used language for these and other beneficiary designations.

Uniform Simultaneous Death Act (USDA)

The Uniform Simultaneous Death Act arose out of the problem of common disaster; that is, any disaster which takes the lives of two or more people more or less simultaneously. The Act states that if two or more people die within 120 hours of each other, each will be deemed to have predeceased the other.

The Act was drafted by the National Conference of Commissioners on Uniform State Laws and most states have adopted it or an act patterned after it.

Generally, with respect to life insurance, if both the insured and his/her beneficiary die simultaneously (as determined under applicable state laws), the proceeds shall be distributed as if the insured survived the beneficiary.

Assume, for example that John and Mary, driving home one night, were involved in a car accident, and both were killed instantly (and simultaneously); that is, they died within the time period stated in their state's simultaneous death act.

Mary was listed as the primary beneficiary on John's life insurance policy. Under the law, John's policy on his life would be paid as if he survived Mary; that is, the benefits would be paid to a contingent beneficiary if there was one, or, otherwise, to his estate. However, your client's fact situation may be more complicated. Assume that this is a second marriage for both John and Mary, and they each have children from previous marriages.

Assume further that John named Mary as his primary beneficiary. Furthermore, they die from the same accident but *Mary survives John by six days*.

Because it can be established that Mary survived John by greater than 120 hours, the proceeds are payable to her. *Note that it does not matter whether a contingent beneficiary was named or who it was.* That is because Mary's survival causes the proceeds to flow to her, then to her personal representative to be distributed according to her will, if she had one, or if not, then to members of her family according to her state law. John's children get nothing. Is that what your client intended? Probably not.

Under the Act, if an insurance policy (or other instrument) states another time frame required for survival of the beneficiary, the provision in the insurance policy will prevail. Therefore, to avoid this presumption of "simultaneous" death under the Act, the insured could include a so-called "time clause" which might be worded as follows:

> "Mary Doe, wife of the insured, if living on the 15th day following my death, otherwise, equally to my children who are living on the 15th day after the date of my death, if any; otherwise to my executors, administrators, or assigns."

If the beneficiary is a spouse, care must be taken to limit the time period to no longer than six months. This is because property that does not vest in the surviving spouse within six months does not qualify for the marital deduction, and would likely be subject to estate taxes.

Another beneficiary designation may be for the proceeds to be payable to a trust (created by John while he was alive), which, by its terms, provides benefits to Mary while she is alive, and to other specified beneficiaries upon Mary's death. For example, proceeds to be distributed equally to both John and Mary's children.

A third way might be for the insured to elect payment of the proceeds via a policy settlement option. Election of a settlement option may have the advantage of providing that policy proceeds go to a contingent beneficiary (which must be named), when and if the primary beneficiary were to die prior to receiving all of the payments under the settlement option.

For example, John might elect a 10-year installment payment settlement option, name Mary as the primary beneficiary, and all of their children (by name) as contingent beneficiaries.

If Mary survived the accident by 30 days, then the first annual installment might be paid to Mary's estate, and the balance of nine installments to their children, as contingent beneficiaries.

Insurable interest

Insurable interest is a key principle in life insurance. Every state has either statutory law or case law on insurable interest which requires that either the applicant or the owner hold such an interest at the inception of the contract.

Insurable interest is imposed by law in order to prevent "gaming" or "wagering" by one party on the life of another through life insurance. A simple way to understand this principle is to always ask the following question with regard to each and every life application:

"Will the owner have a greater interest in the insured's 1) living or 2) dying?"

Generally, insurable interest will be present where the parties have a greater interest in the insured living rather than dying.

Stated another way, the public has an interest in *preventing* the creation of life insurance contracts where the applicant has no interest in the continuation of the insured's life.

Because each state is free to create its own laws with respect to insurable interest, and different state courts may come to different conclusions regarding insurable interest, the following rules are only general in nature. Any specific questions beyond the scope of this discussion should be directed to your American General underwriting team:

The following, generally, have an insurable interest in an insured:

1. parent, on a child's life
2. child, on a parent's life
3. grandchild, on the life of a grandparent
4. grandparent, on the life of a grandchild
5. siblings, on the lives of brothers and sisters
6. spouses, on each other's lives
7. a person or business that would suffer a financial loss upon the person's death
8. creditors, on the lives of debtors as long as the relationship between the insurance amount and debt amount is proportionate
9. Varies according to state law: a qualified charity may have an insurable interest in the life of a donor. Check applicable state law.

Generally, other relatives, such as aunts, uncles, nieces, nephews, in-laws, stepsons or daughters, foster children, or cousins, are not deemed to have an insurable interest in an insured merely by virtue of the blood relationship.[3]

Payable on death accounts (POD) and transferable on death accounts (TOD)

Up to this point life insurance beneficiary designations have been our primary concern. There are, however, other financial products which may be passed by beneficiary designation. The most common are payable on death accounts (POD) or transferable on death accounts (TOD).
A payable on death account is exemplified by a bank account. A client deposits money into the bank and designates that the account is payable directly upon death to a named person.

Similarly, transferable on death (TOD) accounts are generally used with stocks, mutual funds and other securities, or accounts holding securities. Here, a named person is also indicated who will receive the account balance upon the death of the account holder/client.

As with any beneficiary designation, these accounts will generally go directly to a designated individual(s). However, the client needs to be reminded that any assets that have beneficiary designations *will not be distributed according to his/her will.*

One attribute of distribution by will is that it allows the client to enumerate assets in one place. And, there may be occasions when the client may prefer to distribute some assets via will (for example, bank accounts or securities), and others (life insurance, for example) by beneficiary designation. Similar

[3] However, insurable interest may be shown because of dependency.

to practically all decisions in the beneficiary review, this is up to the client's discretion. If the client would like further information with regard to which designation is more beneficial to his situation, he should consult a competent advisor or legal counsel.

Qualified plan and IRA distributions

Qualified plan and IRA accounts are commonly distributed at death with beneficiary designations. Their inherent complexity, coupled with regular legislative changes to their distribution rules, make this a challenging area to master.

Important note: If the client has questions with regard to this area, it is strongly suggested that he/she seek appropriate professional counsel.

Qualified plans

Qualified plans include such common retirement plans as Section 401(k) plans, profit sharing plans, defined contribution and defined benefit plans. These plans normally include a provision by which a participant may designate his or her beneficiary. The plans enumerated typically are governed by ERISA (The Employee Income Retirement Security Act of 1974) and thus the plan's provisions govern a beneficiary designation. (ERISA Section 514).

NOTE: After a divorce, be *sure* that the client has considered and made any desired beneficiary changes to all of his/her qualified plans.

It is also important to understand the rights of a participant's spouse in an ERISA-governed qualified plan. The plan's beneficiary designation must provide for the participant's spouse, unless the participant made a qualified election that was supported by the spouse's notarized consent (ERISA Section 205). Thus, if your client seeks to make someone other than a spouse the beneficiary of a qualified plan, it is necessary to receive the spouse's written consent in order to do so.

Prudent retirement plan beneficiary planning always suggests making beneficiary designations that cover all contingencies. Most retirement plans also permit the naming of a contingent beneficiary, in addition to the primary.

If a participant fails to make *any* designation, there is usually a plan "default", often making the benefit payable to the executor of the participant's estate.

As with all beneficiary designations, a client's divorce should be considered when making a retirement plan designation. Assuming the retirement plan is governed by ERISA (most are), then ERISA preempts all state laws and the plan's terms govern whether or not a divorce has any effect on the plan beneficiary designation.

IRAs

IRA beneficiary planning, particularly for the wealthier client, is a key component of overall planning. Those with significant additional assets might choose to designate children or grandchildren as IRA beneficiaries, assuming the spouse has sufficient other resources to live on.

It should be apparent that this is a complex area; therefore, if your client has any retirement plan or IRA distribution questions, it is strongly suggested that he/she seek assistance from a trained financial advisor knowledgeable in this area.

Where to go for additional information

For additional information regarding the concepts discussed and other estate concepts, access AMO Salesmaker by:

1. Visiting our website at eStation.americangeneral.com, or
2. Running a permanent life insurance illustration in our WinFlex illustration system, and, in the left-hand side menu, clicking on AMO Salesmaker.

AMO Salesmaker offers a wealth of information for producers and clients on business insurance, charitable, and estate planning concepts. For an introduction to Salesmaker, in the Salesmaker menu, click on estate planning, and print and review:

1. Depletion of an estate by taxes and costs
2. Irrevocable trusts
3. Bypass trusts
4. Avoiding probate with a revocable living trust
5. Gift tax

AMO Salesmaker is approved for consumer use.

In addition to AMO Salesmaker, your producer website or the WinFlex illustration software offer additional sales tools. They currently include:

1. **Advanced Markets Online**, featuring explanations, charts and diagrams on various concepts related to business insurance, retirement, charitable giving, taxation and estate planning.
2. **AMO Documents**, which provides specimen documents for a variety of advanced sales concepts to be used by your clients' attorney to help guide them in the implementation process.
3. **Journey Needs Analysis:** an easy-to-use insurance needs analysis program.
4. **Tapestry:** training aids, numerical reports and graphical presentations for advanced concepts.

Client scenarios*

This section describes several of the common scenarios you may encounter when completing the Beneficiary Review Financial Journal (AGLC103200) data form.

In all cases, the data is presented in a manner consistent with the layout of the data form. That is, the written synopsis is a summary of what comes from the data form. The following cases are not actual ones; presented for illustrative purposes only.

Familiarity with these scenarios will help you complete the beneficiary review.

Pay particular attention to the suggested steps in the process.

Remember: you are not creating a "plan", or presenting a fancy paper presentation for the client. The beneficiary review is complete when the client tells you that he/she is happy with their beneficiary designations.

Hopefully, you will have completed an insurance needs analysis or policy review and identified a problem that may be solved with our insurance, annuity, or accident and health products.

*Not an actual case; presented for illustrative purposes only.

Step One: Gathering the data

From the data form part one of Beneficiary Review Financial Journal (AGLC103200)

- William, age 38, Theresa, age 35, approximate income: $120,000 ($80,000 William, $40,000 Theresa)
- Credit card and consumer debt (autos): $20,000
- Second marriage for William: son Matt, age 15, by previous marriage
- Life-long California residents
- Children of current marriage: Maria, age 7, Isabella, age 3
- Parents: all parents living and in good health
- Advisors: Theresa's sister named as guardian and executor for both William and Theresa's wills, attorney completed simple wills with testamentary trusts for William and Theresa three years ago. No other advisors.
- What they would like from the beneficiary review: "Take care of all kids and Theresa – beneficiary changes needed? Insurance changes needed?"

From the data form part two of Beneficiary Review Booklet

- Current life insurance: $250,000 10-year term, purchased 2002, payable to Theresa as primary beneficiary, "children of the insured" as contingent. $100,000, 10-year term policy owned by ex-wife for support of William's son, Matt.
- William: $35,000 401(k) account, William cannot recall the beneficiary.
- Simple wills pass only personal property of approximately $25,000, wills pass this property to each other ("I love you" wills).
- No assets titled to trust
- Joint tenancy: Residence with fair market value of $500,000, mortgage $400,000, net equity of $100,000. Bank accounts: $25,000. No other joint tenancy property.
- Total net assets =
  - $250,000 life insurance
  - $35,000 401(k) account
  - $25,000 personal property
  - $25,000 bank accounts
  - $100,000 net home equity
  - Less: (20,000) credit card and consumer debt

  Total net estate: $365,000

Step Two: Ask questions and make observations

- "Are you comfortable with your current plan?" (No)
- "Do you mean to include your son Matt in your life insurance designation which reads "children of the insured?" (YES)
- "Your current $250,000 term policy won't get close to providing Theresa or your children with an independent income. Would you like to see what an independent needs analysis would recommend in terms of amount and type of insurance?" (YES)
- "Would you like Theresa to have management assistance for the assets which she will receive?"(YES)

Step Three: Action steps

1. Consult your legal advisor with regard to changing the beneficiary of your current life insurance policies to your testamentary trust.
2. Present completed insurance needs analysis. "William, based upon our insurance needs analysis, assuming that Theresa would require an annual income of $40,000 per year from your assets (not including earnings from working), you may require an additional insurance amount of $X,XXX,XXX in order to achieve that goal. Let's discuss how American General's life insurance products may fit your situation."
3. Find out to whom your qualified plan account is payable. (Client should obtain beneficiary information from the plan administrator). "Is this the designation you want?"
4. How do you feel about these recommendations? (Good)
5. "Great, let's begin the insurance paperwork."
6. Referrals: "Tell me about your parents and in-laws." (A beneficiary review is valuable at ALL ages.)

Client scenario*

John and Margo

Step One: Gathering the data

From the data form part one of Beneficiary Review Financial Journal (AGLC103200)

- John, age 53, Margo, age 53, approximate annual income: $90,000 (John only); Margo has not worked for 30 years
- Credit card and consumer debt: $15,000 car loan
- First marriage for John and Margo: one daughter, Leslie, age 31, married, no children
- Illinois residents
- Margo's parents and John's dad deceased, John's mother alive, age 78. John's mother lives in Winnetka, a very wealthy Chicago suburb.
- Advisors: Family attorney, property and casualty agent, no other advisors
- What they would like from beneficiary review: "Determine if all property will pass smoothly to Margo – take care of her needs if John predeceases."

From the data form part two of BeneficiaryReview Booklet

- Current life insurance: $180,000 group term life policy, plus $100,000 participating whole life policy purchased in 1988 (dividends currently sufficient to pay the premium). Beneficiary on both: Margo primary; Leslie, contingent.
- John: 401(k) account: $150,000, payable to Margo (no contingent)

*Not an actual case; presented for illustrative purposes only.

- Simple wills pass property to each other. Approximately $50,000 of personal property (boats, cars, hobby assets). The will is 20 years old.
- Residence in joint tenancy: $700,000 FMV less $300,000 mortgage = $400,000 net equity
- Bank accounts (including $50,000 CD) in joint tenancy. Total: $70,000.
- Mutual funds in joint tenancy: $290,000 current value (**NOTE:** John's mom and dad initially gifted money for the home and funds, but John and Margo have grown them.)
- Total net assets =
  - $280,000 life insurance
  - $150,000 401(k) account
  - $50,000 personal property
  - $70,000 bank accounts
  - $400,000 net home equity
  - Less: ($15,000) consumer debt

  Total net estate: $935,000

Step Two: Ask questions and make observations

- "Are you satisfied with all of your beneficiary designations including your group term, whole life, and 401(k) account (possible contingent beneficiary)?"
- "Would it be advisable for you to plan a review of your wills with your attorney? What has happened since you created them? More property? Do you have a desire to provide asset management for Margo?"
- "What are Margo's income needs in the event of your premature death? For example, if she only required $50,000/year of income, would that be available from your current assets? To generate $50,000 at 4 percent interest, a principal amount of approximately $1,200,000 may be required. Right now you have approximately $550,000 of investable assets. Would you like to close that gap? Let's see what it would take to do that." (Run term and possibly 15-year ROP).
- "John, are you at all concerned about the amount of retirement income you might have?" (No, because my mother is worth about $10 million and she is 78 years old, and I have only one sister.)
- "Excellent! You know even highly successful individuals appreciate a beneficiary review. May I contact her?" (Discuss other referrals as well.)
- If John says "I *am* concerned about retirement" then say "Very good. You know you made an excellent choice when you purchased whole life insurance from ABC Company because it is building cash values for you for retirement and also protects Margo in the event of your premature death. One way to build additional assets for retirement, and also add additional protection for Margo, is to consider the purchase of a universal life insurance policy and fund it for the maximum premium (or overfund it). Let's review American General's universal life insurance products to see how that might work for you."

Step Three: Action steps

1. Add a contingent beneficiary to 401(k) designation.
2. If client desires, provide referral to an attorney.
3. Create an income needs analysis and appropriate life product illustrations. Complete applications with client.
4. Discuss referrals.

Client scenario*

Lee and Betty

Step One: Gathering the data

From the data form part one of Beneficiary Review Client Journal (AGLC103200)

- Lee, age 61, Betty, age 51. Lee is a heart surgeon, earning $800,000. Betty does not work. Lee plans to practice until age 65.
- Credit card and consumer debt: 0
- First marriage, four children: Lee Jr., age 28, married, 2 children; Vera, age 25; Daniel, age 24; and Gregory, age 18. First marriage for Lee Jr.
- Arizona residents, moved from Illinois 8 years ago
- Lee's parents are deceased. Betty's mother is age 74, and father, age 76, live nearby.
- Advisors: business attorney in Arizona and financial planner
- "What would you like from the beneficiary review?" Be sure that assets pass smoothly to Betty, and, as long as they are alive, provide supplemental income to her parents; also, be sure that children are the "final" beneficiaries.
- "A/B" trusts with pour-over wills, executed 20 years ago, never reviewed

From the data form part two of Beneficiary Review Client Journal (AGLC103200)

- Current life insurance: $2 million, 10-year-term policy, purchased 4 years ago; primary is Lee's bypass trust. Also, an irrevocable life insurance trust with $2 million second-to-die policy, purchased 10 years ago. Children are trust beneficiaries, Lee Jr. was recently appointed new trustee.

*Not an actual case; presented for illustrative purposes only.

- Lee: IRA: $ 600,000. Defined benefit plan account balance: $1,700,000. Both payable to Betty (no contingent).
- Business interest: 50 percent owner of a small chain of Arizona urgent care centers; estimated value: $3 million. Operates as LLC.
- Nonqualified mutual funds, $2.5 million; stock brokerage accounts: $1.1 million. All owned by Lee and payable on death to Betty, no contingent payee.
- Bank account: $100,000; CDs: $900,000; all joint tenancy with Betty
- Residence: $2.6 million, $100,000 mortgage = $2.5 million net; joint tenancy with Betty
- Second residence for Betty's parents: $1.5 million fair market value, $500,000 mortgage = $1 million net value. Joint tenancy with Betty.
- Total net assets (includable in the estate):
  - $2,000,000 term life insurance
  - $600,000 IRA
  - $1,700,000 Defined benefit plan
  - $3,000,000 Business interest
  - $3,600,000 Mutual funds and stocks
  - $1,000,000 Bank accounts
  - $3,500,000 Real estate, net

  Total net estate: $15,400,000

Step Two: Ask questions and make observations

- "Has an Arizona attorney reviewed your will and trusts?" (No). "It is important to review your wills when you move from one state to another." (Visit to attorney is indicated.)
- "Have you considered whether or not you want your IRA and defined benefit to go directly to Betty?" (Yes, they do, and that is how I want it to go.)
- "You may wish to add contingent beneficiaries to these accounts."
- "Is a buy and sell agreement in place with your 50 percent urgent care business property?" (No) "You should consult with your attorney about creating a written plan and we should discuss how to fund it. Life insurance is normally used to create the cash for funding your buy and sell agreement. That way, you both know that your families will receive fair value for your business interest if one of you dies."
- "Are you comfortable with your mutual funds, stocks, and bank accounts going directly to Betty?" (Yes, because she will request investment assistance from our financial planner.)
- "Let's talk about your desire to take care of Betty's income needs. Betty: How much monthly income do you currently require to take care of all the family's needs (and your parents)?" (About $20,000 a month – not including college costs for Gregory and Daniel who are both in school.) "Would you like to see if there is any gap in your income and cash needs? That is, see if the existing assets plus insurance on Lee is enough to meet your income goal if he dies?" (Yes) Conduct a separate insurance needs analysis.
- "Your second-to-die policy was an excellent decision; it creates cash in order to pay at least some of the taxes and settlement costs upon the second death. I am, however, concerned that your estate has grown since you purchased it and it may not be enough any more. How do you feel about this?" (Conduct an estimate of current estate settlement costs and consider additional insurance for the trust if needed.)
- Referrals: "Tell me about your surgical practice. How many other surgeons practice with you? Tell me how you got into the urgent care business." (Discuss all referrals.)

Step Three: Action steps

1. Advise client to consider consultation with an Arizona estate planning attorney to review A/B trusts and pour-over wills.
2. Advise client to consult with an attorney with regard to a buy and sell agreement for the urgent care business. Estimate fair market value of business interest. Present life insurance funding for buy and sell.
3. Conduct insurance needs analysis for Betty. If shortage exists, apply for additional personal life insurance.
4. Estimate current estate settlement costs. Apply for additional second-to-die coverage to create necessary estate liquidity.
5. Advise client to consider contingent beneficiaries for qualified accounts and nonqualified mutual funds and stock brokerage account.

Specimen beneficiary designations

A clear, current beneficiary designation is extremely important to both the policy owner and to the insurance company because it

1. clearly describes the person(s) whom the owner wishes the insurance to benefit, and
2. allows the insurance company to readily ascertain who the proper beneficiary is, and pay proceeds to such person without delay.

Furthermore, as stated earlier in this guide, prospective insureds are encouraged to name one or more *contingent beneficiaries* to their life insurance policies in order to plan for the possibility that a primary beneficiary has predeceased the insured.

NOTE: The beneficiary section of the American General's Part A application includes sections for multiple primary and contingent beneficiaries with the option of stating percentages payable to each.

One Individual Beneficiary

Jane Doe, wife.
Wife is descriptive only. The name is controlling. Thus, if the insured, at the time of death, were married to another person (wife), the benefit would still be paid to Jane Doe.

Two Beneficiaries

Jane Doe, mother, and
John Doe, Father, in equal shares, or to the survivor (or state a percent each takes).

One Primary and Children as Contingent

Primary: Jane Doe, wife.
Contingent: Children born of the marriage of, or legally adopted by, the insured, and Jane Doe, in equal shares.

Children as Primary

Jimmy Doe, son, born_____ ,
Alicia Doe, daughter, born_____,
and any other child or children of the insured, in equal shares, or to the survivor thereof.

Children as Primary, per Stirpes

Jimmy Doe, son, born_____ ,
Alicia Doe, daughter, born_____,
and any other child or children of the insured, in equal shares, per stirpes. (A per stirpes designation provides for the descendants of a deceased child.)

ILIT Trust as Primary

John Jones irrevocable life insurance trust, dated 01/01/2008, Bill Smith, trustee.

Intervivos Trust as Primary

John Jones trust dated 01/01/2008, Bill Smith, trustee.

Employer as Primary

XYZ Corporation, a Wisconsin corporation, 1234 Main St., Pleasant Valley, Wisconsin.
(For employer-owned life insurance, notice and consent requirements of the Pension Protection Act must be met if the death proceeds are to remain 100 percent income tax-free. For details, go to "employer owned life insurance" on eStation.)

Creditor as Primary

Big Dog Lending Corporation, its successors or assigns, creditor, as its interest may appear, balance, if any, to Jane Doe, wife.

Testamentary Trust as Primary

The trustee named in the last will of the insured. (If no will is admitted to probate or no trust exists, then payment would generally be made to the estate.)

Specimen letter to client explaining beneficiary review

The purpose of this specimen letter is to explain to the client how the beneficiary review works and how the insurance producer is typically compensated for offering it.

Although use of the letter is not mandatory, it is strongly suggested that it be used to minimize client misunderstandings about the review. It may also reduce the possibility that the producer may provide the beneficiary review and not receive compensation for doing so. This is because the letter makes the producer's compensation clear.

Carefully review the letter with the client prior to completing the data form. It is suggested that you have two copies available and have the client initial one copy. Retain the initialed copy in your client file, and leave the other with the client.

Today's date:

Dear_____:

I am pleased that you have decided to engage in a beneficiary review with my assistance. As I have explained, the beneficiary review is a process whereby you:

1. You first determine to whom all of your property will be distributed at your death. This includes your financial assets such as life insurance, investment accounts, bank accounts, retirement plans as well as real estate and all of your other assets.
2. Once you have determined where they are going, now you must decide if that is what you want. In other words, are you *sure* that your current beneficiary designations are what you really want?
3. Finally, if you answer yes to all of your designations, then the review is complete and you are assured that your assets are going where you want them to. But, if they are not, and you desire to make a change, then, upon your request, I will assist you making such beneficiary changes as you desire.

As you complete the data form, it is extremely important that two principles remain at the forefront. First, *you* are in control of the disposition of all of your assets all of the time. I will not recommend changes, even though I will assist you in any way possible once you have made a decision to make a beneficiary change. Second, upon your request, I can be available to assist you in working with your professional advisor.

My compensation for assisting you in the completion of the beneficiary review consists of:

A. If, during the course of the review, you choose to review your insurance portfolio and any change or additional purchase is indicated, I would expect that any such business be placed through me; and

B. Regardless of whether or not insurance is indicated, if, after the review is completed, you believe that this has been a valuable process for you, then I would expect that you could refer me to a minimum of five other individuals whom you think might benefit from a beneficiary review.

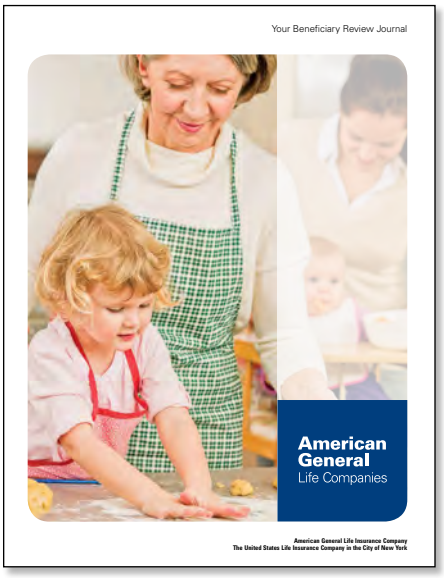
I look forward to assisting you with the review process and discussing any changes you might contemplate.

Sincerely,

Consumer Financial Journal

The Beneficiary Review Financial Journal will help your clients compile their various beneficiary designations and identify if changes need to be made.

It is available through Forms Depot at:
https://estationsecure.americangeneral.com/Producer/ToolBox/FormsDepot

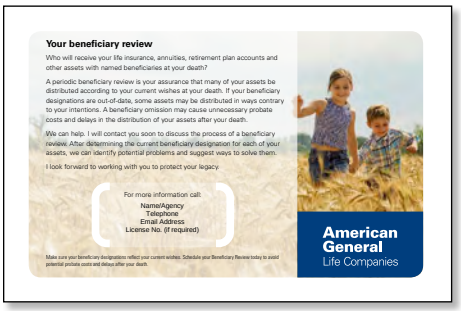


Beneficiary Review Financial Journal: AGLC103200

Direct-mail postcard

Order this consumer direct-mail postcard today and get a great start on generating new sales leads for the American General's Beneficiary Review program.

A fillable PDF is available through Forms Depot at
http://estationsecure.americangeneral.com/Producer/ToolBox/



Consumer Postcard: AGLC103197

American General
Life Companies

Policies issued by: **American General Life Insurance Company** (American General Life), 2727-A Allen Parkway, Houston, TX 77019. **The United States Life Insurance Company in the City of New York** (US Life), One World Financial Center, 200 Liberty Street, New York, NY 10281. The underwriting risks, financial and contractual obligations and support functions associated with products issued by American General Life and US Life are the issuing insurer's responsibility. US Life is authorized to conduct insurance business in the State of New York. Policies and riders not available in all states. Guarantees are subject to the claims-paying ability of the issuing insurance company. American General Life Companies, www.americangeneral.com, is the marketing name for a group of affiliated domestic life insurers including American General Life and US Life. These materials are not intended to be opinion or advice on situations. The insurers of American General Life Companies are solely the provider of the insurance product. American General Life and US Life and their affiliates, employees, or agents do not give legal or tax advice. Please consult your attorney or tax advisor for complete, up-to-date information concerning federal and state tax laws in this area. **Important:** Prior to soliciting business, be certain that you are appropriately licensed and appointed with the insurer and that the product has been approved for sale by the insurer in that state. If uncertain, contact your American General Life representative for assistance.

FOR PRODUCER USE ONLY — NOT FOR DISSEMINATION TO THE PUBLIC

© 2012. All rights reserved.

AGLC103196 REV0612