

Are Custodial Accounts Guaranteed a Guaranty?

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The Insured Retirement Institute (IRI) is investigating whether state guaranty funds cover annuities housed in custodial accounts, including IRA custodial accounts. During the IRI's monthly call in March, the chief counsel of the Florida Life and Health Insurance Guaranty Association confirmed the Association's interpretation of the applicable Florida law: an annuity held in a custodial account is not covered by the guaranty association. According to Florida Insurance Code § 631.713(3)(l), the guaranty association only covers annuities that are issued to and owned by a named "individual." That term is contrasted with a "person," which is defined to mean "any individual, corporation, partnership, association, or voluntary organization." Thus, the inclusion of the word "individual" in Section 631.714(9) means that the only annuities covered by the association are those issued to named individual people and not to corporations, partnerships, associations, or voluntary organizations. This is significant because **many typical IRA custodial accounts are owned by "persons" and not "individuals," meaning they are excluded from coverage by the guaranty fund.** Florida's state issues group believes this excludes from coverage roughly half of all annuities sold in the state. According to Amy Mignogna, IRI's Vice President of Strategic Initiatives, the organization next plans to determine if other states' guaranty association laws are similar to that of Florida. IRI, concerned that excluding custodial accounts from guaranty coverage would have a chilling effect on the sales of annuities to be held in those accounts, is also considering a lobbying campaign to change the law.

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