A *TIMELY* PRIMER ON FDIC INSURED BANK ACCOUNTS

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Financial market commentators, economists and government agency spokespersons have generally reported an inability to assess the impact of the sub-prime debt debacle. A visit to the FDIC's website, however, reveals some sobering information. All FDIC financial institutions in Georgia at June 30, 2007 collectively reported "Noncurrent Loans and Leases" increased 40% from a year ago (and last year's figures were up 30% over the prior year). This website also provides individual institutions' performance ratings. A prudent service for your wealthier clients would be to review their bank deposits to verify maximum FDIC insurance protection. Certain insured limits have been changed in recent years such that it is possible for a married couple to obtain over $1,000,000 of insurance protection by properly utilizing the different account ownership arrangements allowed. This article attempts to condense and summarize the insurance limits and requirements to facilitate such a review.

The Federal Deposit Insurance Corporation is an independent agency of the United States government. Its purpose is to protect depositors against financial losses from failed financial savings institutions through an insurance protection program. FDIC insurance is backed by the full faith and credit of the United State government. Insured banks display an official FDIC sign. Verification is available at 1-877-275-3342 or online at www.fdic.gov/deposit/index, click on "Bank Find."

Insured deposit payments have historically been paid within a few days after a bank closing. Deposits purchased through a broker may take longer because the broker's records must be obtained to determine insurance coverage. Payments of uninsured deposits take longer because they are based on the sale of the failed bank's assets. It may take several years to liquidate these assets.

Banks do fail! Alpharetta-based NetBank was closed by the Office of Thrift Supervision on September 28, 2007 and the Federal Deposit Insurance Corporation (FDIC) was named as receiver. Founded in 1996, NetBank was the nation's oldest internet bank, but apparently it had made too many subprime loans and relied too much on brokered deposits. The bank was closed because of insufficient capital.

ING Bank acquired $1.4 billion in (insured) deposits and 104,000 new customers from the NetBank closure for $14 million. There were $109 million of uninsured NetBank deposits in 1,500 accounts which the FDIC has covered at 50 cents on the dollar currently. The FDIC will issue receiver certificates for the balance payable at a later date. FDIC insurance is applied based on account ownership categories up to specific dollar limits. Customer amounts above the category limits are only recoverable to the extent of sale proceeds from the failed bank's assets. NetBank also had $744 million in brokered deposits with an undisclosed amount of uninsured balances.

Source: FDIC Press Release PR-81-2007

If full insurance protection cannot be achieved through the use of various FDIC account arrangements, you or your client should investigate a service called CDARS, this acronym stands for Certificate of Deposit Account Registry Service. It is a computerized process that allows large CD deposits to be distributed among multiple banks in amounts below the insured limit, so that all the CD capital is FDIC insured. The depositor receives one consolidated statement, one 1099 form, and deals with only one CDARS network member (bank). See www.cdars.com.

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FDIC Account Type	Insured Amount	Covered Accounts	Not Covered Accounts
Single Deposit Accounts owned by same person at same insured bank (1)	$100,000 in total	NOW, CDs, Savings, Checking, Money Market Deposit Accounts (interest rate set by that bank), Fiduciary Accounts (Custodian, Escrow), FBO this person, Estate Accounts, Sole Proprietorship (or DBA) Accounts	Stocks, Bonds, Mutual Funds, Money Market Mutual Fund (external investments), Life Insurance Policies, Annuities, Municipal Securities, U.S. Treasury Bills, Bonds and Notes
Retirement Deposit Accounts titled as such in one person's name	$250,000 in total of cash on deposit	Traditional IRAs, Roth IRAs, SEP-IRAs, SIMPLE-IRAs, all 457 Plans (state & local government provided), Self-directed Defined Contribution Plans-401(k), Money Purchase, Profit Sharing, Keogh or H.R. 10 Accounts	Coverdell ESAs, HSAs, MSAs, 403(b)s (annuities through public schools, tax-exempt orgs., & ministers), Defined Benefit Plans
Joint Deposit Accounts owned by two or more people (2)	$100,000 for each co-owner's share(s) in total	NOW, CD, Savings, Checking, Money Market Deposit Accounts	Same as Single Accounts
Revocable Trust Deposit Accounts owned by one or more persons	$100,000 in total per beneficiary for each account owner (3)	Informal Revocable Trusts: "Payable-on-death" (POD), Totten trust, and "In trust for" (ITF) Accounts which are payable on death to beneficiaries. Formal Revocable Trusts: Living or Family trusts written and controlled by the owner and upon death becomes irrevocable.	Same as Single Accounts
Irrevocable Trust Deposit Accounts	$100,000 in total per beneficiary for each account owner, but realistically, only $100,000 see (4)	Trusts established by statute or a written trust agreement where the grantor gives up all control over trust assets and activities.	Same as Single Accounts
Employee Benefit Plan Deposit Accounts	$100,000 per each participant's non-contingent interest in the plan	Deposit accounts for pension plans, profit-sharing plans or other employee benefit plans	Same as Single Accounts
Corporation/Partnership/ Unincorporated Association Accounts	$100,000, separate from personal accounts of stockholders, partners, or members	Business entities engaged in an "independent activity" – homeowners associations, churches, community and civic orgs., social clubs	"Doing Business As" or DBA accounts (see Single Accounts section)
Government Accounts or Public Unit Accounts	$100,000 for each official custodian of time and savings deposits and separately $100,000 in demand deposits	Deposit accounts of the United States, any state, county, municipality, or an Indian tribe.	Same as Single Accounts

Source: "Your Insured Deposits, FDIC's Guide to Deposit Insurance Coverage"

FOOTNOTES

(1) A single account which authorizes another party to make withdrawals must indicate in the bank's deposit account records that the other party is pursuant to a Power of Attorney, or the other party's withdrawal authorization is only for the owner's behalf (a convenience account). Otherwise the deposit will be insured as a joint account.

(2) Co-owners must be people, not legal entities such as corporations, trusts, estates, or partnerships.

All co-owners must have equal rights to withdraw funds from the account.

All co-owners must sign the deposit account signature card unless the account is a CD or is established by an agent, nominee, guardian, custodian, executor or conservator.

FDIC assumes that all co-owners' shares are equal unless records state otherwise.

(3) For POD accounts, beneficiaries <u>must</u> be identified by name in the deposit account records of the insured bank. For formal living trusts, the account title must indicate that it is a living trust, but names of beneficiaries need not be a part of the account records.

The beneficiaries must be "qualifying," defined as: owner's spouse, child, grandchild, parent, or sibling. Adopted and step children, grandchildren, parents, and siblings also qualify. Non-qualifying beneficiaries include: in-laws, cousins, nieces and nephews, friends, organizations (including charities) and trusts.

All funds attributable to non-qualifying beneficiaries are aggregated and insured up to $100,000 as the single account funds of the trust owner. If the trust specifies different interests for the beneficiaries, the owner is insured only up to each beneficiary's actual interest in the trust.

Example: A husband and wife are co-owners of a living trust. The trust states that upon the death of one spouse the funds will pass to the surviving spouse, and upon the death of the last owner the funds will pass to their three children. This trust's deposit account would be insured up to $600,000.

Contingent or alternative trust beneficiaries are non-qualifying beneficiaries as long as the primary or initial beneficiaries are still living, except where there is a life estate interest.

Upon the death of an owner, the FDIC provides a grace period of 6 months during which the account is insured as if the owner were still living.

(4) The insured bank's deposit account records must disclose the existence of the trust relationship. Trust beneficiaries and their interests must be identifiable in the bank's or trustee's records. The beneficiary's interest must not be contingent. The trust must be valid under state law.

The beneficiary does not have to be related to the trust grantor.

A retained interest by the grantor is added to any single accounts owned by grantor at the same bank and the total insured amount is limited to $100,000.

The following trust provisions negate an irrevocable trust being insured on a per beneficiary basis, resulting in the trust as a whole qualifying for only $100,000 in insurance coverage:

- trust agreement does not name the beneficiaries or provide a means of identifying them;
- trust agreement provides that a beneficiary will receive no assets unless certain conditions are satisfied;
- trust agreement provides trustee with power to invade principal with the result that assets may not become available or be reduced to other beneficiaries;
- trust agreement provides that a trustee or particular beneficiary may exercise discretion in allocating assets among the beneficiaries, with the result that future distributions to each beneficiary are impossible to predict.