// BERWITZ & DiTATA LLP
Attorneys and Counselors at Law

310 Old Country Road Suite 101
Garden City, New York 11530
Telephone (516) 747-3200 ● Facsimile (516) 747-3727

Lawrence N. Berwitz Maureen R. DiTata

Understanding Your FDIC Coverage

The FDIC (Federal Deposit Insurance Corporation) is an independent agency of the United States government, created to protect depositors of FDIC insured banks and savings associations, against loss due to the failure of the insured bank. It covers all types of deposits, checking, savings, money market and time deposits like certificates of deposit ("CDs"), dollar-for-dollar up to the insurance limit including principal and accrued interest. The general limit insurance coverage for these accounts is $250,000 per depositor, per insured bank, for each account ownership category

If, in one insured bank, a **single depositor** owns a checking account, a savings account and a CD in his or her name alone, the value of the accounts are added together and only $250,000 of the total sums insured. Therefore, if you have a total of $250,000 or less on deposit in all of your accounts at the same insured bank, your deposits are fully protected.

For **joint accounts**, accounts owned by two or more people, under FDIC rules each person's share is considered equal unless otherwise stated in the bank's records. To determine the amount of each joint account holder's insured limit, it is necessary to determine what other accounts the individuals own at that bank. Thus, if Harry and Wendy, husband and wife, together own a savings and a checking account at the same insured bank which total $500,000, they are fully insured. But if either Harry or Wendy own other accounts at that bank, there may not be sufficient insurance. For example, if Wendy's sister Pam also opens an account at that bank and names Wendy as a joint owner, Wendy will be deemed to own half of Pam's account. If Pam deposits $100,000 into that account, she will only be insured for $50,000 because the other $50,000 will be deemed to be owned by Wendy whose insurance limit is already exhausted. Using different Social Security numbers on multiple accounts owned by the same individuals does not increase the insurance coverage.

Payable on death ("POD") or in trust for ("ITF") accounts are accounts that specify named beneficiaries to receive the proceeds upon the owner's death. If an account is properly titled using the commonly accepted terms above and the beneficiaries are named, the account is insured for up to $250,000 for each beneficiary, provided that the owner has no other accounts at the same insured bank.

FDIC rules regarding **revocable trusts** or "living trusts" are more complex. They take into consideration many issues such as: whether the trust was created by one or more

individuals, the number of beneficiaries or successor beneficiaries (those who receive if a primary beneficiary dies), the number of beneficiaries alive at the time of the bank failure, whether the beneficiaries receive equal or unequal interests or, if a charity or not-forprofit organization is named, whether it qualifies under IRS regulations. As a general rule, such accounts are insured for up to $250,000 per owner for each "qualifying" beneficiary named in the trust agreement and, for this reason, owning accounts in a trust may significantly increase the available insurance.

Insurance will cover **accounts for irrevocable trusts** as long as the records for the insured bank reveal the existence of the trust relationship and the identity and interest of each beneficiary. Additionally, the amount of each beneficiary's interest must not be contingent as defined by FDIC regulations. For this reason, it is important to provide a copy of the trust agreement to the bank when opening such an account. There is no per-beneficiary coverage for this type of trust if the owner retains the right to use the trust assets. Instead, the amount of the owner's retained interest is added to the owner's other accounts at the same insured bank, if any, and the total insured amount is $250,000. There is also no per-beneficiary coverage for contingent or non-ascertainable beneficiaries. All such interests would be added together and insured for up to $250,000.

Retirement accounts such as IRAs, Roth IRAs, SEP IRAs, Section 457 deferred compensation plans, self-directed 401(k) plans and self-directed Keogh plans also have limits on insurance: $250,000 per owner per insured bank. Naming multiple beneficiaries does not increase the insurance coverage for these types of accounts.

What happens when two insured banks merge? The FDIC affords a grace period of six months, during which the deposits from the assumed bank continue to be separately insured. This gives the depositor time to restructure or move accounts. CDs are insured until the earliest maturity date after the six month grace period expires.

Periodically review your coverage, especially after a change in your life. For example, if a couple has a $500,000 joint account which is fully insured and one of them dies, the survivor has six months to restructure the account. After that, the entire account is limited to the $250,000 applicable to the survivor's single-ownership account and the balance is at risk if the bank fails.

Beware, the FDIC does not insure **stocks, bond mutual funds, life insurance policies or annuities** even if they were purchased from an insured bank. It also does not insure US Treasury bills, bonds or notes but these are separately backed by the full faith and credit of the US government. Contents of safe deposit boxes also are not protected by FDIC insurance. If you have further questions concerning FDIC insurance or the best way to title your accounts, please call Berwitz & DiTata LLP.