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FDIC Insurance: What You Should Know

The failure of IndyMac Bank, one of the largest bank failures in our history, has prompted numerous questions about the FDIC and its limits. The FDIC, Federal Deposit Insurance Corporation, is an independent agency of the US government created to maintain stability in the nation's financial system. It protects depositors of FDIC insured banks and savings associations ("insured banks") 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 rule is that, if a single depositor's accounts at a single insured bank *total* $100,000 or less, the deposits are fully insured. Deposits in separate branches of an insured bank are not separately insured.

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 accounts are added together and only $100,000 of the total is insured. If you have $100,000 or less in all of your deposit accounts at the same insured bank, you don't need to worry about your insurance coverage. 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 a husband and wife, John and Joan, together own a savings and checking account at the same insured bank totaling $200,000, they are fully insured. But if either of them own other accounts at that bank, there may be insufficient insurance. So, if Joan's sister also opens an account at that bank and names Joan as a joint owner, Joan will be deemed to own half of her sister's account. If the sister 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 Joan whose insurance limit is already exhausted. Using different Social Security numbers on multiple accounts owned by the same individuals does not increase the coverage.

Payable on death ("POD") / In trust for ("ITF") accounts. These are accounts that specify named beneficiaries to receive the deposits upon the owner's death. If the account is properly titled using the commonly accepted terms above, and "qualifying" beneficiaries are identified by name (spouse, child, grandchild, parent or sibling), the account is insured for up to $100,000 for each beneficiary - provided that the owner has no other accounts at the same insured bank.

FDIC rules regarding formal revocable trusts, "Living Trusts" or "Family Trusts," are more complex. They take into consideration whether the trust was created by one or more individuals, the relationship between the trust creator and the beneficiaries, whether beneficiaries are alive at the time of the bank failure, the number of successor beneficiaries (those who receive the interests of a predeceased beneficiary), whether the beneficiaries receive equal or unequal interests or income rights, and many other issues. As a general rule, such accounts are insured for up to $100,000 per owner for each "qualifying" beneficiary named in the trust agreement (see above) and, for this reason, owning accounts in a trust may significantly increase the available insurance. Other relatives, friends and charitable organizations do not qualify.

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

Periodically review your coverage, especially after a change in your life. For example, if a couple have a $150,000 joint account (fully insured up to $200,000), and one of them dies, the survivor has six months to restructure the account. After that, the entire account is insured as the survivor's single-ownership account, leaving $50,000 at risk of loss if the bank fails.

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, so the depositor can restructure or move accounts. CDs are insured until the earliest maturity date after the six month grace period expires.

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.