

The Estate Planning Advisor

FDIC Insured Bank Accounts: New Rules

By Richard J. Shapiro, J.D.

After the failure of IndyMac Bank this past summer, I wrote a column describing the basic protections afforded to FDIC insured bank accounts. Since then our financial system has continued in a free-fall. As of this writing the Dow is down about 40% from its high exactly one year ago, with no end to the misery in sight.

Many people taking their money out of the stock market are parking their cash in banks. The recent \$700 billion federal bailout package – which has yet to calm the fears of the average citizen – has added one important consumer benefit: a significant (albeit possibly temporary) increase in the FDIC insurance provided to bank accounts in federally insured institutions.

For decades, the FDIC insured an individual's deposits of up to \$100,000 in a single FDIC insured bank, whether held in a single account or in multiple accounts in the same bank. This unchanging cap often caused people to spread their savings in multiple banks to ensure protection for all their bank funds. Recognizing that an increase in the FDIC insurance limits was long overdue, on October 3rd Congress increased the FDIC coverage to \$250,000 for each individual's total deposits in a single FDIC insured bank. This increase in coverage will be in effect only until December 31, 2009, however, unless Congress extends the date.

As under the prior rules, the total available insurance applies whether the assets are held in a single account or in multiple accounts in the same bank. If an account is jointly owned, the account is FDIC insured up to \$500,000. But, for those individuals who have more than \$250,000 in assets (or couples with more than \$500,000 in assets), revocable living trusts remain an excellent tool for increasing the amount of FDIC coverage at a single bank.

For "informal" trust accounts – those with an "in trust for" or "pay on death" designation -- the amount of FDIC insurance is determined by the number of beneficiaries listed in the various ITF or POD accounts held by the account owner at a particular bank. Under the new law, there is no longer a limitation that the beneficiaries be "Qualified Beneficiaries," which under the old rules included *only* an account owner's spouse, children, grandchildren, parents or siblings. Now, naming any natural person, charity or other non-profit entity as the account beneficiary will provide the additional protection.

For example, if Alan has a \$750,000 CD designated ITF for his son James and Orange Regional Medical Center, the entire \$750,000 is fully insured, because the owner is insured up to \$250,000 for himself, and for each beneficiary's interest. Under this

same example, if Alan's wife Sally was also an owner of the account, the account could be insured for up to \$1,500,000 – all at a single bank!

The rules for accounts owned by formal revocable trusts were simplified on September 26 pursuant to an Interim Rule issued by the FDIC. Assume, for example, a person's revocable living trust names five trust beneficiaries (a spouse and four children). Under the Interim Rule, the revocable trust accounts at one FDIC-insured institution will be insured up to \$250,000 per beneficiary. Revocable trust account owners with more than \$1,250,000 and more than five different beneficiaries named in the trust(s) appear at this writing to be insured for the greater of either: \$1,250,000 or the aggregate amount of all the beneficiaries' interests in the trust(s), limited to \$250,000 per beneficiary. Of course, as with all new laws, continued refinements and interpretations are likely to be made in the months ahead as the law is implemented.

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