FDIC Insurance Disclosures

COMPLIANCE ALERT

Throughout 2009 and 2010, FDIC insurance changed substantially as the maximum level of insurance increased to $250,000 on a temporary basis and financial institutions were given the option of providing certain depositors with unlimited insurance coverage under the Transaction Account Guarantee Program ("TAG Program"). With the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") on July 21, 2010, the rules changed yet again to make the $250,000 coverage permanent and provide unlimited FDIC insurance coverage for noninterest-bearing transaction accounts. More recently, Congress amended the definition of a noninterest-bearing transaction account to allow for unlimited coverage for IOLTAs.

Updated Alert Date:	January 25, 2011
Status:	Permanent SMDIA increase to $250,000 – Effective July 22, 2010 Unlimited coverage for noninterest-bearing transaction accounts - Effective December 31, 2010 Unlimited coverage for IOLTA Accounts – Effective January 2011
Links:	Final Rule - Permanent SMDIA increase to $250,000 November 2010 Final Rule - Unlimited Coverage for Noninterest-bearing Transaction Accounts January 2011 Final Rule - Unlimited Coverage for IOLTA Accounts

What is the Maximum Level of FDIC Insurance for Interest-Bearing Accounts?

Prior to the Dodd-Frank Act, the FDIC had increased the maximum level of FDIC insurance from $100,000 to $250,000 until December 31, 2013. Upon enactment of the Dodd-Frank Act, however, the increase in FDIC insurance to $250,000 was made permanent. By January 3, 2011, financial institutions were required to replace their previous FDIC insurance signs with new signage reflecting the $250,000 permanent insurance coverage.

What is a Noninterest-bearing Transaction Account and How is it Insured?

In November 2010, a final rule implementing the Dodd-Frank provisions was issued ("November 2010 Final Rule") that amended the deposit insurance rules to allow for unlimited FDIC insurance coverage for noninterest-bearing transaction accounts from December 31, 2010 through December 31, 2012. The definition of noninterest-bearing transaction accounts in this rule did not include NOW accounts or IOLTAs. As a result, NOW accounts and IOLTAs would no longer receive unlimited insurance coverage, regardless what interest rate was paid on the accounts. However, the FDIC indicated that sweep arrangements where funds are swept from a noninterest-bearing deposit account to a savings or money market account that does not earn interest, such as in a reserve reclassification arrangement, will continue to have unlimited coverage.

In December 2010, Congress amended the definition of a noninterest-bearing transaction account to include IOLTAs. As a result, the FDIC issued implementing regulations in January 2011 ("January 2011 Final Rule") to include IOLTAs in the definition of a noninterest-bearing transaction account and provide them with unlimited insurance coverage, regardless of the interest rate paid on the account. This change in the definition of a noninterest-bearing transaction account also changed the notice and disclosure requirements.

The November 2010 Final Rule established several notice and disclosure requirements. The rule required that financial institutions post a model notice at their main office, branches and website describing the new deposit insurance rules, and remove any TAG notices or signage, by December 31, 2010. The January 2011 Final Rule amends the model notice, and financial institutions have until February 28, 2011 to post the new model notice in their main office, branches and website.

Under the November 2010 Final Rule, financial institutions that were participating in the TAG program also had to notify NOW and IOLTA account holders that, on January 1, 2011, those accounts no longer had unlimited protection. The January 2011 Final Rule subsequently eliminated the notice requirement for IOLTAs and suggests, although it does not require, that financial institutions that have already sent the IOLTA notice send a revised notice to those IOLTA account holders letting them know that their accounts will be fully insured from December 31, 2010 through December 31, 2012. The notice to NOW accountholders is still required under the November 2010 Final Rule.

One requirement of the November 2010 Final Rule that has not been affected by the January 2011 Final Rule is the fact that all financial institutions have to inform customers when an action by the institution will affect the insurance coverage on the customer's account. For example, where a customer has a sweep arrangement in place that requires the institution to sweep funds from a checking account to an interest-bearing account periodically, the institution will be required to inform the customer that the sweep of the funds will result in the swept funds no longer qualifying for unlimited insurance coverage. Likewise, if a financial institution begins paying interest on demand deposit accounts when Regulation Q is repealed on July 21, 2011, it will be required to notify affected customers that their accounts will no longer qualify for unlimited insurance coverage.

Recommendations for Next Steps

1. Obtain new lobby signage to reflect the $250,000 FDIC insurance coverage before January 3, 2011.

2. If you were participating in the TAG Program, send a notice by December 31, 2010 to all NOW account holders that receive unlimited insurance coverage under TAG explaining that those accounts will no longer have unlimited deposit insurance coverage on January 1, 2011.

3. Send a notice to your sweep account customers, by December 31, 2010, explaining how moving the funds from a noninterest-bearing transaction account will affect the deposit insurance on the funds.

4. Update sweep account opening disclosures to notify new sweep customers how moving the funds from a noninterest-bearing transaction account will affect the deposit insurance on the funds.

5. Post, by February 28, 2011, the amended “Notice of Changes in Temporary FDIC Insurance Coverage for Transaction Accounts” in the main office, all branch lobbies and on your website, if internet deposit services are offered.

6. If you participated in the TAG Program and sent a notice to IOLTA account holders about the change in FDIC insurance coverage, you may send a revised notice to the IOLTA account holders explaining that their accounts will be fully insured from December 31, 2010 through December 31, 2012.

7. If you take action or modify an account in a way that will affect the deposit insurance coverage on customers’ accounts, such as paying interest on demand deposit accounts after Regulation Q is repealed, you will have to send a notice to customers explaining the impact on your actions on the FDIC insurance coverage. We recommend sending the notice at least 30 calendar days prior to the change becoming effective.