

FDIC Deposit Insurance Coverage

COVERAGE:

Q: What are the increases in FDIC insurance limits?

There have been **two** changes to the limits on deposit insurance coverage.

- **Overall deposit insurance limit.** First, the overall deposit insurance limit was temporarily increased from \$100,000 to \$250,000 in the Emergency Economic Stabilization Act (EESA). The deposit insurance limit will go back to \$100,000 on December 31, 2009 unless Congress acts to extend the increase beyond that date. Retirement accounts were already insured up to \$250,000 and will remain at that level when the EESA provision expires.
- **Non-interest bearing transaction account guarantee.** Second, under its Temporary Liquidity Guarantee Program (TLGP), the FDIC will guarantee the **full** amount of funds in non-interest bearing transaction deposit accounts, regardless of dollar amount. This FDIC guarantee is the equivalent of deposit insurance coverage. FDIC defines a "non-interest-bearing transaction account" as a transaction account on which the insured depository institution pays no interest and does not reserve the right to require advance notice of intended withdrawals. A typical example is a non-interest bearing checking account. See **Rules for TLGP Transaction Account Guarantee** for limitations and exceptions to this rule.

Q: How long does the coverage last?

Both the increase to \$250,000 and the TLGP transaction account guarantee are temporary and will expire at the **end of 2009** unless action is taken to extend the coverage.

Do we need to tell our customer's the change is temporary?

Yes. It is particularly important that customers that open CDs with maturities after December 31, 2009 understand the insurance limits so they can accurately assess their risk in the event of a bank failure.

Q: Is the amount on deposit in non-interest bearing transaction accounts added to the other accounts a customer owns to determine coverage limits under the FDIC rules?

This coverage creates a new ownership ‘category’ that is separate from the deposit insurance coverage provided on other categories of accounts. For example, if a customer has \$50,000 in a noninterest-bearing deposit account and \$250,000 in a certificate of deposit, the FDIC will insure the entire \$300,000 because non-interest bearing deposit accounts and individual ownership accounts are insured separately (assuming the customer has no other accounts at the same institution).

RULES FOR TLGP TRANSACTION ACCOUNT GUARANTEE

Q: What types of accounts are included in this guarantee?

The guarantee applies to all non-interest bearing transaction accounts, whether commercial or consumer, and no matter how much money is in the account. It also applies to:

- “Analysis” types of accounts used for corporations, which involves the offset of fees based on balances such as waivers or fee-reducing credits, so long the account otherwise satisfies the definition;
- NOW accounts that do not allow for interest payments that exceed .50%, including tiered NOW accounts for which the interest can never rise above .50%;
- Interest on Lawyer’s Trust Accounts (IOLTAs);
- Non-interest bearing transaction accounts where funds are swept into a non-interest bearing savings accounts (banks often use this reclassification mechanism to manage funds on reserve at the Fed); and
- Non-interest bearing transaction accounts where funds are swept into low interest bearing savings accounts where the interest cannot rise above .50%.

Q: What types of accounts/funds are excluded from the guarantee?

The following types of accounts do not qualify for the guarantee:

- Interest bearing MMDAs;
- Tiered NOW accounts if the possibility exists that the rate could ever rise above .50% (e.g., with a given balance); this also is true of accounts with an indexed interest rate (such as a rate tied to Treasury rates). Unless the account includes a ceiling of .50%

or lower, the account will not be covered, even if the rate at present is less than .50%.

Q: How are non-interest bearing accounts with automatic sweep features treated?

The amount of funds in a non-interest bearing transaction account that, at the time of the failure, have actually been swept into an interest bearing account either in the institution (i.e., an MMDA) or outside the institution (i.e., a repo or money market mutual fund account) are not eligible for the transaction account guarantee. In the former case, the swept funds would be aggregated with funds in the institution owned in the same ownership category and insured up to \$250,000. In the latter case, funds swept outside the institution would not be eligible for deposit insurance coverage because no deposit exists. Importantly, however, funds that remain in the non-interest bearing account after the sweep **do** qualify for the transaction account guarantee.

Q: Does FDIC consider a “sweep” to be any *time* funds are transferred, such as when a customer transfers from their checking to their money market savings account either online or in person at a branch?

No. This applies only to automatic sweeps or transfers.

Q: How are Cashier’s Checks covered?

When an institution issues official checks drawn on another insured depository institution that is participating in the TLGP, then the payee of the official check would be fully covered. If the other institution is not a participating institution, then whether the payee is insured for the amount of the official check would be based on the FDIC’s general deposit insurance rules. The institution issuing such official checks must disclose information the deposit insurance treatment to such customers.

Q: What about official checks issued through Money Gram?

Money Gram itself is not a bank and therefore must use another bank to process their checks. Money Gram should be able to tell advise which bank it uses, and the bank issuing the official check can look on the FDIC website to determine whether that bank is participating in the transaction account guarantee. If it is, the payee of the official check is covered by the

guarantee. If not, the issuing bank must disclose information about the deposit insurance treatment to its customer.

Q: Are Travelers' Checks treated the same way as Cashier's Checks?

Yes. Travelers' checks qualify for the TLGP guarantee so long as an insured institution that has not opted out of the TLGP is primarily liable on the check. This is true whether the travelers' checks are issued by an insured institution or an agent.

Q: If a bank opts out, will the decision to opt out be made public?

Yes. The FDIC will maintain and will post on its website a list of those that have opted out of either or both programs.

Q: What fees will be assessed for the transaction account guarantee?

Beginning on December 6, 2008, institutions that have not opted out of the Transaction Account Guarantee Program will be assessed (on a quarterly basis) a **10 basis point annualized surcharge** (2.5 bps quarterly) on balances in non-interest bearing transaction accounts that **exceed** \$250,000 (i.e., banks are assessed on amounts that are not otherwise covered and assessed under the standard coverage rules). The surcharge will be **added** to the bank's existing assessments for those deposits, but will not be adjusted for risk as is the case with normal assessments. No fees will be charged for the initial period (ending on December 5, 2008). FDIC will add the surcharge incurred during the 4th quarter to the 4th quarter bills that will be sent around March 15, 2009 (payable on March 31, 2009).

DISCLOSURE REQUIREMENTS

Q: What do we need to tell our customers regarding the change?

Banks should be able to explain the increase in the deposit insurance limit and the duration of the change. This is particularly important to customers that open CDs with maturities after December 31, 2009, when the insurance levels revert to the amounts in effect before the temporary change.

Q: What disclosures are required?

For the **general increase** to \$250,000, all banks must post signage stating the temporary increase in insurance coverage. Banks may create their own or order signs from the FDIC.

<http://www.fdic.gov/news/news/financial/2008/fil08102.html>. FDIC has provided the following model language for these signs: “On October 3, 2008, FDIC deposit insurance temporarily increased from \$100,000 to \$250,000 per depositor through December 31, 2009.”

For the *transaction guarantee program*, the following disclosures are required:

- **Lobby signs.** By **December 19, 2008**, insured institutions must prominently post signs in their main offices and at all branches at which deposits are taken its decision, informing customers whether or not they are participating the transaction account guarantee program. The disclosure must clearly state whether or not covered noninterest-bearing transaction accounts are fully insured by the FDIC.
- **Website.** An insured institution that offers Internet deposit services must disclose on its website whether or not it is participating in the TLGP. This website disclosure is intended to reach customers who deal with their institutions exclusively or primarily over the Internet.
- **Disclosures to customers affected by sweep arrangements.** If an institution uses sweep arrangements or takes other actions that result in some of or all of the funds in a noninterest-bearing transaction account being transferred to or reclassified as an interest-bearing account or a non-transaction account, the institution must notify affected customers in writing that funds that are swept out of the account are not eligible for the guarantee. **Importantly**, if customers have been notified in their account opening agreements of the impact of sweeps on deposit insurance, they need not receive an additional notice.
- **Disclosures for negotiable instruments issued through a bank that has opted out:** If the paying bank has opted out, then the issuing bank’s notice should include the statement that official checks purchased are not eligible for the guarantee. This notice can be part of the signage posted in the branch; it does not have to be posted at each teller window or handed to the customer in the form of a buck slip when the customer purchases a check.

Q: Has model language been provided for the TLGP disclosures?

Yes. The final rule includes the following sample notices:

- **Participating Institutions:**

[Institution Name] is participating in the FDIC's Transaction Account Guarantee Program. Under that program, through December 31, 2009, all noninterest-bearing transaction accounts are fully guaranteed by the FDIC for the entire amount in the account. Coverage under the Transaction Account Guarantee Program is in addition to and separate from the coverage available under the FDIC's general deposit insurance rules.

- **Non-Participating Institutions:**

[Institution Name] has chosen not to participate in the FDIC's Transaction Account Guarantee Program. Customers of [Institution Name] with noninterest-bearing transaction accounts will continue to be insured through December 31, 2009 for up to \$250,000 under the FDIC's general deposit insurance rules.

Q: Can an insured depository institution modify these notices?

Yes. An institution may supplement the information contained in the FDIC's sample disclosures, for example, with an explanation as to why it decided to remain in or opt out of the TLGP. Click [here](#) for message points developed by ABA for banks to use with customers, investors or reporters when explaining their institution's decision to participate -- or not participate -- in the TLGP.

Q: Is there model language for sweep notices?

No. The FDIC declined providing model language because there are so many different types of sweep accounts. The only requirement is that any notice must be clear and conspicuous and tell the customer what they need to know.

Q: Does this notice need to be part of our account-opening disclosures or written account agreement, or sent to all existing customers?

No. The signage is sufficient as long as it is conspicuously posted in your branches and on your website. However, if you advertise the change, the temporary nature (e.g. the expiration date of December 31, 2009) of this change must be clearly and correctly stated.

REVOCABLE TRUSTS

Q: How have the rules regarding revocable trusts changed?

The FDIC has changed the rules for both formal and informal revocable trust accounts. Now, rather than limiting beneficiaries to spouse, parents, children, grandchildren and siblings, the beneficiary of a revocable trust account may be any living person, a non-profit or charitable entity.

The FDIC has stressed (this is NOT a change) that for informal revocable trust accounts such as “payable-on-death” or POD accounts, “in-trust-for” or ITF accounts, testamentary accounts or Totten Trust accounts **the account title must indicate the existence of the trust.** (See 12 C.F.R. 330.10(b))

Formal revocable trusts include living trusts and family trusts and are generally created for estate planning purposes. Importantly, they are subject to the same titling rules as apply to informal revocable trusts. However, unlike informal revocable trusts, the designation of the beneficiaries is generally found in the trust documents and not in the records of the depository institution.

Q: Do we have to list all the beneficiaries in the account title?

No. The named beneficiaries must be listed in the bank’s records. The title should clearly show that the account is a trust account, such as ‘Mary Smith, POD Account’ or ‘John Jones, Family Trust Account.’ That way, if the bank fails, the FDIC knows how the insurance coverage should be applied.

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