



Commercial Financial Services Brief: FDIC Unlimited Deposit Insurance Coverage Set to Expire at the End of the Year

December 10, 2012

The unlimited deposit insurance coverage on noninterest-bearing transaction accounts is set to expire on December 31, 2012. Therefore, without a change in law by Congress, as of January 1, 2013, the FDIC will provide coverage only up to the standard maximum deposit insurance amount, currently \$250,000, for each depositor at an insured depository institution.

The FDIC has published a financial institution letter, FIL-45-2012 on November 5, 2012, encouraging insured depository institutions to provide "adequate advance notice" of the change in insurance coverage. The Dodd-Frank Act does not contain a notice requirement for the expiring unlimited insurance coverage, but the FDIC stated it is "a matter of prudent commercial practice" to do so. Specifically, the FDIC encourages the insured deposit institutions to act as follows:

- Provide notice to depositors in writing that the temporary unlimited coverage is scheduled to expire on December 31, 2012, and thereafter the FDIC will insure each depositor's accounts, including noninterest-bearing transaction accounts, in the aggregate of up to \$250,000 per insured institution;
- Remove from your main offices, branches, and web sites the "Notice of Changes in Temporary FDIC Insurance Coverage for Transaction Accounts" required by 12 C.F.R. § 330.16(c)(1); and
- Review noninterest-bearing transaction account agreements and related disclosure statements, and modify the documents as necessary to reflect accurately noninterest-bearing transaction account coverage on January 1, 2013.

The model notice language provided by the FDIC is:

NOTICE OF EXPIRATION OF THE TEMPORARY FULL FDIC INSURANCE COVERAGE FOR NONINTEREST-BEARING TRANSACTION ACCOUNTS

By operation of federal law, beginning January 1, 2013, funds deposited in a noninterest-bearing transaction account (including an Interest on Lawyer Trust Account) no longer will receive unlimited deposit insurance coverage by the Federal Deposit Insurance Corporation (FDIC). Beginning January 1, 2013, all of a depositor's accounts at an insured depository institution, including all noninterest-bearing transaction accounts, will be insured by the FDIC up to the standard maximum deposit insurance amount (\$250,000) for



each deposit insurance ownership category. For more information about FDIC insurance coverage of noninterest-bearing transaction accounts, visit their webpage here.

Alternatively, the FDIC recommended that institutions which place a notice on regular account statements that have space limitations utilize a shorter notice to noninterest-bearing transaction account depositors, such as:

NOTICE: By federal law, as of 1/1/2013, funds in a noninterest-bearing transaction account (including an IOLTA/IOLA) will no longer receive unlimited deposit insurance coverage, but will be FDIC-insured to the legal maximum of \$250,000 for each ownership category. For more information, visit their webpage here.

If you need any assistance with complying with the FDIC's recommendations discussed here or have any questions please contact any of the following Gray Plant Mooty attorneys:

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