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## **BULLETIN 08-13**

To: All Old Republic National Title Agents and Offices

From: Underwriting Department

Re: FDIC Insurance Concerns

Date: October 1, 2008

The Federal Deposit Insurance Corporation (FDIC) has received several inquiries from title companies concerning the amount of FDIC insurance which is available when: (1) a bank insured by the FDIC fails; and (2) the title company maintains an escrow account in which the funds of several customers have been deposited.

The FDIC has developed a standard response to these inquiries. One such response, issued on July 21, 2008, is being forwarded to you for your convenience. Any questions concerning this issue may be directed to the FDIC at the toll-free number or at the web site referenced in the attachment.

If you have any questions, please contact the Underwriting Department at 800-342-5957.

Thank you for contacting the Federal Deposit Insurance Corporation (FDIC). In your e-mail you had a specific question associated with deposit insurance coverage for escrow trust accounts held for the purpose of an escrow/title business. These accounts fall under the section of the FDIC rules and regulations 12 CFR Part 330.5 "Recognition of deposit ownership and recordkeeping requirements" The specific regulations can be found at the following website: <http://www.fdic.gov/regulations/laws/rules/2000-100.html>.

Based on the information you provided, it would appear that there is a fiduciary relationship and that the company could establish a single savings account to hold deposits for the benefit of each client up to \$100,000 as long as the company follows the disclosure requirements listed below.

Fiduciary accounts are accounts established by a person or entity for the benefit of one or more other parties. Fiduciary relationships include, but are not limited to, arrangements involving:

- A trustee
- An agent
- A nominee
- A guardian
- An executor
- A custodian

Funds deposited by a fiduciary on behalf of one or more principals are insured as the funds of the principal (owner) to the same extent as if the funds were deposited directly by the principal provided the disclosure rules for fiduciary accounts are met. Examples of fiduciary accounts include, but are not limited to:

- Uniform Gift to Minors Act (UGMA) accounts
- Accounts with a power of attorney
- Decedent estate accounts
- Real estate (and other) escrow accounts
- Mortgage servicing accounts
- Interest on lawyer trust accounts (IOLTA)
- Brokered deposits

These rules require that the fiduciary nature of the account be disclosed in the account title and the details of the relationship and the interests of other parties in the account must be ascertainable from either:

1. The deposit account records of the insured institution, or
2. Records maintained in good faith and in the regular course of business by the depositor or by some person or entity that had undertaken to maintain such records for the depositor.

Please be aware that deposits placed by an agent on behalf of the client at a bank may have an impact on the client's insurance coverage. As such, the agent has a fiduciary responsibility to inform the client of the deposits placed in a bank on their behalf.

If the client has deposits in a bank in the same ownership capacity that funds are being placed by the agent, all deposits would be added together and the total only insured up to the insurance limit for that ownership category. \$100,000

For example, a Company serves as an agent holding funds in trust for a client John Doe. If John Doe has \$25,000 of funds held by the Company at XYZ Bank and John Doe also has a CD for \$100,000 in his name alone at the same bank, both amounts would be added together and John Doe would only be insured for \$100,000 with \$25,000 uninsured.

If you have any further questions regarding deposit insurance coverage, please contact the FDIC Call Center at 1-877-275-3342. We hope this information is helpful to you. If you wish to learn more about FDIC deposit insurance coverage, please see our deposit insurance products at: [www.fdic.gov/deposit/deposits/](http://www.fdic.gov/deposit/deposits/)

Here you will see a list of Deposit Insurance Products. If you click on anyone of those associated products you will be taken directly to that product where you can view the information.

As part of our ongoing efforts to improve our service to the public, we would appreciate it if you would complete a short questionnaire on the level of service you received from this office. The questionnaire form can be accessed at <http://www2.fdic.gov/starsmail/customer.html>

Sincerely,

Federal Deposit Insurance Corporation  
Division of Supervision and Consumer Protection