October 1, 2021

By Email to comments@fdic.gov
Mr. James P. Sheesley
Assistant Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 17th Street N.W.
Washington, DC 20429

Re: Simplification of Deposit Insurance Rules (RIN 3064-AF27)

Dear Mr. Sheesley:

Reich & Tang Deposit Networks ("R&T") appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's ("FDIC") Notice of Proposed Rulemaking to revise its deposit insurance rules with respect to the treatment of trust accounts ("Proposed Rule").[1]

R&T has been dedicated to administering sweep programs for broker-dealers and financial institutions since 1974, initially using proprietary money market funds. Since 2015, R&T has been focused solely on administering insured depository institutions ("IDI") sweep programs and has become a leading provider of administration services for IDI sweep programs offered by broker-dealers. R&T administers these sweep programs in accordance with FINRA guidelines and broker-dealer custody rules.

In addition to its services provided to broker-dealers, R&T makes available through the Demand Deposit Marketplace® ("DDM") program a bank deposit network with more than 300 participating financial institutions that places deposits into more than 200 IDIs. Through the administration of sweep programs for broker-dealers and the sponsorship of the DDM program (together, "IDI Sweep Programs"), we are able to help provide access to stable funding for IDIs, from community banks to the largest IDIs.

As of August 31, 2021, R&T administers more than $115 billion in IDI Sweep Programs. Of this amount, approximately: (1) $9 billion is associated with revocable trusts (107,000 accounts); and (2) $400 million is associated with irrevocable trusts (46,000 accounts).

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[1] Simplification of Deposit Insurance Rules, 78 Fed. Reg. 41766 (Aug. 3, 2021)

Current Treatment of Trust Accounts Placed Into R&T Administered IDI Sweep Programs
As summarized in the FDIC's discussion of the Proposed Rule, the current rules for determining FDIC insurance coverage of trust assets can be complex. The complexity of the current rules can be further compounded when trust deposits are distributed through an IDI Sweep Program. In such cases, deposits placed at the sending IDI (i.e., the IDI with the account-holding relationship that sources the trust account) may be distributed to more than one IDI (each, a "receiving bank"), essentially ensuring that the receiving banks holding the assets will not be able to produce the requisite trust documents for the FDIC in the event of bank failure without the assistance of the sending IDI and R&T, which could further delay the settlement of such claims by the FDIC.

To avoid errors and delays that could result from the absence of documentation, R&T has historically followed a conservative approach in administering IDI Sweep Programs related to preserving eligibility for FDIC insurance for trust customers:

- If the sending IDI is able to provide the beneficiary information, then R&T will treat the trust accounts as being eligible for FDIC insurance under the appropriate trust ownership category and allow for FDIC insurance up to 5 beneficiaries using the FDIC's current trust simplification rules for trusts with 5 or fewer beneficiaries; or

- If the sending IDI is <u>not</u> able to provide the necessary information, R&T will assume that all trust accounts (revocable and irrevocable) placed into the IDI Sweep Programs are *ineligible* for the additional FDIC insurance available to certain trusts. Accordingly, R&T will treat such trust accounts for FDIC insurance eligibility purposes as being in the "single account" ownership category ("Revert to Single Account Methodology").[2]

For example, assume Bank Y places $1,100,000 into an IDI Sweep Program administered by R&T that relates to a revocable trust account with 5 eligible beneficiaries ("Trust A"). The records maintained by R&T will always reflect Trust A with an ownership category of "revocable trust". However, if Bank Y does not separately provide the required information for the 5 beneficial owners or acknowledge that such information is readily available in the event of a bank failure, then when allocating the $1,100,000, R&T treats the ownership category as "single account," thus requiring that such amount is allocated among at least 5 IDIs with no more than $250,000 at any IDI.

Recommendation
We believe that the "Revert to Single Account Methodology" described above greatly reduces the complexity associated with trusts in the event of a bank failure, particularly in connection with trusts

[2] R&T uses the same approach whether a trust is a revocable trust or an irrevocable trust, and notwithstanding whether the interests held by beneficiaries are contingent or non-contingent. See slide 28 of the "Fundamentals of Deposit Insurance Coverage" webinar at https://www.fdic.gov/deposit/seminars.html, which states that "Single Account is the default category for depositors who do not meet the requirements of another category." Note that the account remains appropriately titled in R&T's official records as a trust account.

placed into banks through IDI Sweep Programs. Under this methodology, if the sending IDI does not provide beneficiary information, the information contained in the trust documents, including beneficiary information ("Trust Documentation"), is irrelevant. As a result, R&T requests that the FDIC acknowledge as part of its rulemaking that the "Revert to Single Account Methodology" eliminates the need for the sending IDI to provide Trust Documentation upon a bank failure or for the purpose of Part 370 Recordkeeping Requirements, and that without beneficiary information, such accounts can be treated as Single Accounts for such purposes. This approach significantly reduces the complexity of applicable trust accounts and reduces to a minimum the FDIC processing time with respect to such accounts in the event of a bank failure by eliminating the need for the FDIC to review Trust Documentation.

The FDIC might also reconsider, solely with respect to IDI Sweep Programs, allowing limiting the amount of deposit insurance coverage for each grantor or trust to no more than $250,000 without regard to the number of beneficiaries.[3] This alternative would not reduce, and may potentially increase, the amount of deposit insurance coverage for trust accounts in the context of an IDI Sweep Program administered by R&T that use the "Revert to Single Account Methodology."

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We sincerely appreciate the FDIC's efforts to simplify the rules for trust accounts and hope that our recommendations prove useful in moving this project forward. R&T stands ready and willing to assist the FDIC with respect to any matters in which the FDIC believes perspective of a sweep administrator may prove useful.

Sincerely,

[redacted]

Joseph Jerkovich
EVP and Chief Operating Officer
Reich & Tang Deposit Networks, LLC

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[3] In Section E, "Alternatives Considered" of the Proposed Rule, the FDIC explained that it had considered limiting the amount of deposit insurance coverage for each trust to $250,000 without regard to the number of beneficiaries ("Alternative 1"). Despite the simplicity of such an approach, the FDIC declined to pursue this proposal as it believed that it "would substantially reduce deposit insurance coverage for many trust deposits that currently exceed $250,000." In the context of an IDI Sweep Program administered by R&T, the use of Alternative 1 would likely increase the amount of deposit insurance coverage thereby dispelling the FDIC's concern in these situations.