

May 27, 2008

Mr. Robert E. Feldman, Executive Secretary  
Attention: Comments  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429

Re: Processing of Deposit Accounts in the Event of an Insured Depository Institution  
Failure and Large-Bank Deposit Insurance Determination Modernization

Seward & Kissel, LLP's April 24, 2008 Letter to You

Dear Mr. Feldman:

I am the Internal Auditor for the Keller Companies, Inc. I read the above letter on the FDIC website. I thought it raised some very good points and was pleased to see that some broker-dealers were genuinely concerned about the FDIC coverage for their clients' investments in CDs. There never should be any question for a CD investor about whether their first \$100,000 investment in a CD in a particular bank is FDIC insured, none whatsoever.

We ourselves invest in CDs, sometimes directly, and sometimes through brokers with or without DTC involvement, and we have always tried to determine that FDIC insurance does in fact flow down to our investments. That is not always easy, and I have met some resistance in the past trying to prove categorically that our CD investments are categorically FDIC insured. Some brokers and dealers tend to want us to just take their word. I always like a paper trail instead to prove the coverage, and I have the following comments on that:

1. We are aware that the phrase "As agent for others," allows the flow thru of FDIC insurance from the issuing bank, through the Master Certificate of the broker or dealer, to the investors. That's great, but it would be better if the issuing bank provided their own statement of FDIC coverage directly to the multiple investors in the Master Certificate. That then would categorically prove to the investors that their investment is not only FDIC covered (assuming that the issuing bank is an FDIC registrant, which can be checked on your website), but really part of the Master Certificate.

This would be extra work for the issuing banks, and the brokers and dealers, but there would be no doubt for the investor as to the validity of the FDIC coverage or the tie in to the Master Certificate. None. I would have a concern that a minority of unsavory brokers or dealers might oversubscribe some CD investments. For a \$5,000,000 Master Certificate, they might actually sell \$7,000,000 to their investors. \$2,000,000 would not be FDIC insured. I'm not sure if the FDIC looks for this, or has safeguards to ensure that it does not happen. If not, this might be something to consider.

The investors in the \$2,000,000 depicted in the example above, are not only not FDIC insured, but are also accepting less return based on the increased risk that they unknowingly have undertaken. Technically, which \$2,000,000 would not be covered?

I have heard rumors of oversubscribing of investments in the investment world, even with CDs. Years ago I sought advice on a professional accounting website on proving

FDIC coverage on broker bought CDs, from others who might have had the same problems I did. One Internal Auditor responded that in a past job, he had run into a lot of resistance from a broker on this issue in terms of proving his company's ownership interest in broker bought CDs.

He indicated that it turns out they were indeed not investing in the CDs mentioned, but were investing the funds elsewhere. They were eventually discovered, and luckily most of his company's investments were out of that brokerage by then.

2. Even if the Master Certificate is not oversubscribed, I suppose there could be a problem that there is a records mix up, and an investor is inadvertently not invested in the Master Certificate for the issuing bank, but are told that they are, a lesser evil to be sure.

3. I don't know if the FDIC does this or not, but it might be wise for the FDIC to somehow determine from brokers or dealers all of the CD investments held in large Master Certificates, and compare to the totals reported by the banks. If this information is not available at either level, it might be prudent to design systems to allow this. This would give the FDIC some comfort level that CDs are not oversubscribed at a macro level, assuming that "accurate" information can be obtained. If the totals aren't close..... In my view, all FDIC covered CDs should be under the purview of the FDIC.

Maybe there should be a definitive tracking record communicated to the FDIC for the investment in individual Master Certificates, with a cross check to the bank's own records. Safeguards would be needed to make sure that all reported totals were "accurate." If you couldn't determine that, then there would be no sense in implementing, you would not know if all parties were telling the truth. Having said all this, I realize that the FDIC has limited resources.

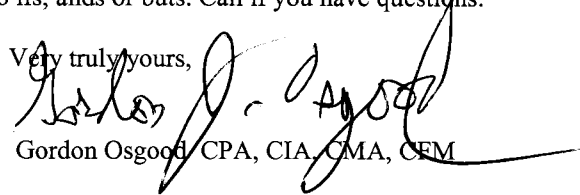
4. I point out too that some CD brokers only deal in CDs. I do not believe they then are subject to SIPC insurance. They are essentially unregulated. Maybe they have other insurance for fraudulent or lost investments, maybe they don't. It might be wise to regulate them. Even if a broker has SIPC insurance, that only covers \$100,000 in total for fraudulent losses for money (more for securities I believe).

I will point out a potential reason banks might not want to implement any of the above, they don't want to get bogged down in complying with the anti money laundering provisions of Title III in the Patriot Act, preferring to let the brokers handle that. Our company Treasurer mentioned this to me, stating too that many banks don't want to sell CDs direct to businesses, for just this reason. Then too, regardless of the Patriot Act, it would be extra work to implement my suggestions.

It just irks me that a deemed risk free investment, the Brokered CD, has no categorical proof to the investor that it is indeed risk free. Given my sometimes unpleasant experiences with brokers, I think that should change, especially given the dramatic increase in brokered deposits. I just reviewed a number of broker bought CD folders in our Investment Dept., noting that many had no documentation from the issuing bank at all! Even if they did, in the world of Desktop Publishing Software, something could easily be drafted up by an unscrupulous broker or dealer.

Please do consider my comments above if you have not already. I guess my overall theme here is that brokers and dealers do not necessarily have the same type of tight regulation that banks do, and yet they are dealing in a bank product, CDs. To my way of thinking, these CDs should have the same type of protection as any other CD, and it should be readily provable, no ifs, ands or buts. Call if you have questions.

Very truly yours,



Gordon Osgood CPA, CIA, CMA, CEM