EMPLOYEE BENEFIT PLAN ACCOUNTS[3] (12 C.F.R. § 330.14)

I. Definition

For purposes of deposit insurance coverage, the term "employee benefit plan" means an employee welfare benefit plan or an employee pension benefit plan (or a hybrid of the two). This definition is taken from section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA).

The most common employee benefit plans include:

- *Defined benefit plans* – These plans pay participants a certain amount after they retire based on years of employment and their salary.
- *Employee welfare plans or welfare benefit plans* – These plans provide medical, health, and hospitalization benefits or income in the event of sickness, accident, or death.
- *Defined contribution plans* (e.g., 401(k), profit sharing plans) – These plans allow participants and/or employers to make tax-deferred contributions, that plan participants can access later (e.g., after they are 59½ years old).
- *Keogh plans* (defined benefit or defined contribution plan) – These plans are used by self-employed people who make tax-deferred contributions that plan participants can access later (e.g., after they are 59½ years old).

FDIC insurance coverage is based on deposit funds at the IDI

Employee benefit plans can invest funds in deposit accounts in IDIs as well as in nondeposit products such as stocks, bonds and other investments. FDIC deposit insurance only applies to the funds that are on deposit at the IDI.

II. Investment Decisions Made By a Plan Administrator

Employee benefit plans have plan administrators who make investment decisions for the plan participants.

[3] Section 11(a)(1)(D)(ii) of the FDI Act, 12 U.S.C. § 1821(a)(1)(D)(ii), provides that an IDI may not accept deposits of an employee benefit plan unless the IDI is well capitalized or adequately capitalized. Please note, however, that an undercapitalized IDI's violation of this prohibition will not affect the insurance coverage of the employee benefit plan's deposits.

III. Insurance Limit

The deposits of an employee benefit plan are insured on a "pass-through" basis, meaning that the deposits are insured up to $250,000 for the "non-contingent interest" of each plan participant. A "non-contingent interest" is an interest capable of determination without evaluation of contingencies other than life expectancy. To the extent that any deposits represent contingent interests, the deposits are separately insured up to $250,000 in the aggregate. Finally, to the extent that any deposits represent an "overfunding" of the plan, the deposits are separately insured up to $250,000 in the aggregate.

Interests in defined contribution plans

An employee's non-contingent interest in a defined contribution plan is deemed to be the "employee's account balance as of the date of the failure of the insured depository institution regardless of whether said amount is derived in whole or in part from contributions of the employee and/or employer to the account."
12 C.F.R. § 330.14(c)(1).

Interests in defined benefit plans

An employee's non-contingent interest in a defined benefit plan "is deemed to be the present value of the employee's interest in the plan evaluated in accordance with the method of calculation ordinarily used under such plan, as of the date of the default of the insured depository institution." 12 C.F.R. § 330.14(c)(2).

Example 26: Pass-through deposit insurance coverage for employee benefit plan accounts	
Account Title	**Balance**
Medical Services of Mainville, PC Employee Benefit Plan	$700,000

Example 26

Facts:

Medical Services of Mainville, a small doctor's office, has four employees, each of whom participates in the employee benefit plan. These employees do not participate in any other employee benefit plan sponsored by the same employer.

- **Employee Benefit Plan Accounts**

The plan administrator invested $700,000 in CDs from Anytown Bank. The employee benefit plan defines the interest of each plan participant. Under the terms of the plan documents, the interests of the participants are non-contingent. The respective interests of the participants are set forth below:

Plan Participants	Share of Plan	Share of Deposit
Dr. Moore	40%	$280,000
Dr. Wilson	35%	$245,000
Nurse Smith	15%	$105,000
Mrs. Taylor	10%	$70,000
Plan Total	**100%**	**$700,000**

Rules:

(a) The deposits of an employee benefit plan are insured up to $250,000 for each participant's non-contingent interest.

(b) To calculate each participant's interest in a deposit account, multiply the deposit amount by each participant's percentage share of the plan's assets.

Answer:

Plan Participants	Share of Plan (A)	Share of Deposit (B)	Insured Amount (C)	Uninsured Amount (D)
Dr. Moore	40%	$280,000	$250,000	$30,000
Dr. Wilson	35%	$245,000	$245,000	$0
Nurse Smith	15%	$105,000	$105,000	$0
Mrs. Taylor	10%	$70,000	$70,000	$0
Plan Total	**100%**	**$700,000**	**$670,000**	**$30,000**

In this example, Column A provides each plan participant's percentage share of the plan. The interest of Dr. Moore, for example, is 40% of the plan assets. The plan has $700,000 on deposit. Therefore, Dr. Moore's interest is 40% of $700,000, which equals $280,000 (Column B).

Since each plan participant's non-contingent interest is insured up to $250,000 (Column C), Dr. Moore's interest is uninsured in the amount of $30,000 (Column D).

Using this same calculation for each participant, the table shows every other participant's non-contingent interest is less than $250,000. Therefore, the interests of the other employees are fully insured.

IV. Determining the Maximum Insurable Amount

The above example explained how the FDIC determines deposit insurance coverage when the funds already are on deposit at the IDI.

Sometimes, a plan participant, an administrator, or an IDI employee wants to know how much can be deposited in a plan account and be fully insured.

Example 27

Example 27:
Calculating maximum deposit insurance coverage for an employee benefit plan's deposits at one IDI

Plan Participants	Share of Plan (A)	Share of Deposit (B)	Insured Amount (C)	Uninsured Amount (D)
Dr. Moore	40%	$250,000	$250,000	$0
Dr. Wilson	35%	$218,750	$218,750	$0
Nurse Smith	15%	$93,750	$93,750	$0
Mrs. Taylor	10%	$62,500	$62,500	$0
Plan Total	**100%**	**$625,000**	**$625,000**	**$0**

Facts:

Before opening an employee benefit plan account at XYZ Bank, the plan administrator wants to know how much can be deposited and be fully insured. The facts in this example are the same as in example 26.

Rule:

The maximum amount that can be deposited in an employee benefit plan account and be fully insured is calculated by dividing $250,000 by the largest non-contingent percentage interest in the plan.

Answer:

Dr. Moore has the largest non-contingent interest in the plan at 40%. When you divide $250,000 by 0.40, the result is $625,000 (Plan Total in Column B). This means the plan's deposits can be fully insured for up to $625,000 at each IDI.

Based on a balance of $625,000, Column B outlines the interest of each participant. For example, multiplying $625,000 by Mrs. Taylor's 10% results in $62,500, which is her beneficial interest. This interest is fully insured because it is not greater than $250,000. Similarly, the interest of every other participant is fully insured because it does not exceed $250,000.