

**SCHWARTZ & BALLELLP**

1990 M STREET, N.W. • SUITE 500

WASHINGTON, DC 20036-3465

WWW.SCHWARTZANDBALLEN.COM

TELEPHONE  
(202) 776-0700

FACSIMILE  
(202) 776-0720

**MEMORANDUM**

July 1, 2016

To Our Clients and Friends

Re: FDIC Updates Brokered Deposit FAQs

The Federal Deposit Insurance Corporation (“FDIC”) has updated its frequently asked questions issued in January 2015 regarding brokered deposits (“FAQs”). Although they do not materially change the previous guidance that was issued in January 2015, the revised FAQs clarify the FDIC’s responses in some important areas.

The updated FAQs clarify the FDIC’s previous responses to questions regarding “dual-hatted” employees, such as bank personnel who also are licensed to sell securities and other financial products. The FDIC states that unlike “dual employees,” dual-hatted employees are employed exclusively by the bank and therefore are not generally regarded as deposit brokers (FAQ E4). An FAQ was added that addresses call center personnel. Generally, call center personnel will not be regarded as deposit brokers if they simply transfer callers to bank personnel and their compensation is not based on the number of accounts or deposit volume generated as a result of the call (FAQ E6).

The guidance also clarifies the circumstances under which it may regard “friends and family” and loyalty programs as giving rise to brokered deposits (FAQ B7). It also eliminated certain ambiguity regarding when deposits received from affiliated institutions will be regarded as brokered.

The FDIC deleted reference to its prior position that the “primary purpose” test “applies only infrequently and typically requires a specific request for a determination by the FDIC.” The FAQ now states that the FDIC considers each request for review and interpretation on a case-by-case basis (FAQ E9).

An FAQ also addresses the circumstances under which a brokered deposit without a maturity (*e.g.*, a demand deposit) can be reclassified as nonbrokered (FAQ F3).

A copy of the FDIC’s updated FAQs is available on our website at <http://www.schwartzandballen.com/news.html>

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox, or Heidi Wicker at (202) 776-0700.