



Federal Deposit Insurance Corporation
550 17th St. NW Washington DC, 20429

Legal Division

February 28, 2003

Mr. Ronald Raxter
Maupin, Taylor & Ellis, P.A.
P.O. Drawer 19764
Raleigh, North Carolina 27619-9764
Subject: TrustCash

Dear Mr. Raxter:

Thank you for your letter dated January 22, 2003, requesting the FDIC's views on deposit insurance coverage under 12 C.F.R. 330.5 for accounts established using the proposed TrustCash arrangement and the FDIC's understanding of 12 C.F.R. 204.130(e). In your letter you indicated TrustCash would establish an account with a trustee upon the request of a commercial trust department, and TrustCash would then solicit one or more commercial banks to issue a Master NOW account to the trustee. The trust department could access the account on a daily basis to make deposits or withdrawals.

An account may be insured to a person other than the named account holder, but only if the insured bank's deposit account records expressly disclose, using specific references, that the account is held by someone other than the actual owner of the funds pursuant to a fiduciary relationship. As you noted in your letter, 12 C.F.R. 330.5(b) recognizes a claim for deposit insurance coverage based on a fiduciary relationship only if that relationship is expressly disclosed, by specific references, in the insured bank's deposit account records. The details of the relationship and the interests of other parties must be ascertainable either from the deposit account records of the insured institution or from records maintained in good faith by the depositor or the depositor's agent. No claim for insurance based on fiduciary relationship will be recognized in the absence of disclosure in the deposit account records.

The FDIC may determine, in its sole discretion, that the deposit account and the underlying account records sufficiently indicate such a relationship, such as where the account is held by a company whose business is to hold deposits and securities for others. Also, where multi-tiered fiduciary relationships exist, the regulation provides two alternative methods of satisfying these disclosure requirements: 1) expressly indicate in the deposit account records the existence of each and every level of fiduciary relationships and disclose at each level the names and interests of the person(s) on whose behalf the party at that level is acting; or 2) expressly indicate in the deposit account records that multiple levels of fiduciary relationships exist, disclose the existence of additional levels in records maintained in good faith in the regular course of business by parties at subsequent levels, and disclose at each level, the names and interests of the person(s) on whose behalf the party at that level is acting.

Mr. Ronald Raxter

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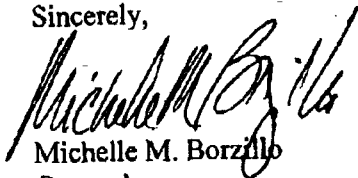
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Based on the information provided in your letter, the TrustCash Master NOW accounts would be insured based on a fiduciary relationship, provided that the bank's deposit account records contain the disclosures required by 12 C.F.R. 330.5(b). Under 330.5(a)(2), the interest of each beneficial owner may be determined on a fractional or percentage basis. Under 330.5(a)(1), however, if the FDIC has reason to believe the deposit account records misrepresent the actual ownership of deposited funds, the FDIC may consider all available evidence and pay claims for insured deposits based on the actual rather than any misrepresented ownership.

Regarding your question concerning regulation 12 C.F.R. 204.130(e), that regulation appears to require TrustCash to verify that the trust clients are otherwise eligible to maintain NOW accounts. You may wish to contact the Federal Reserve Board, the issuer of that particular regulation, for confirmation.

If you have additional questions regarding this matter, please do not hesitate to contact me at (202)898-7400, or by e-mail at mborzillo@fdic.gov.

Sincerely,



Michelle M. Borzillo

Counsel

Supervision and Legislation Section