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Managing Insured Deposits as Fiduciaries in a Shifting Landscape

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Overseeing and managing bankruptcy deposits can be complex. A designated bankruptcy trustee or fiduciary cannot simply walk into the local branch of their neighborhood bank and deposit funds. Bankruptcy deposits are governed by the chapter 7 trustee handbook and 11 U.S.C. § 345. Banks that hold bankruptcy deposits must be qualified and approved as authorized depositories with fully executed agreements between the bank and the U.S. Trustee for each district or region where the funds are being held.

One of the unique requirements for bankruptcy deposits is the requirement to collateralize — a challenge that has become more complex over the last two-plus years. However, the introduction of a new-to-bankruptcy solution in the form of a reciprocal deposit program provides a pathway to maximize Federal Deposit Insurance Corp. (FDIC) coverage and mitigate the collateral constraints.

Reciprocal deposit programs, a decades-old deposit-management and syndicate structure used throughout the U.S. banking system, can help fiduciaries navigate the changing and challenging depository landscape. As of October 2025, the Executive Office for U.S. Trustees approved a pilot deployment of a bankruptcy-specific reciprocal program in three districts to be commenced in the coming months. While this article focuses on the challenges facing chapter 7 trustees, the same opportunity to maximize FDIC coverage through reciprocal deposit programs applies to pre-confirmation chapter 11 cases in which bankruptcy deposits require collateralization.

An Overview of UDA Changes

In the summer of 2024, the Executive Office for U.S. Trustees released a systematic update to the Uniform Depository Agreement (UDA) that each bank must individually execute at the bankruptcy region or district level.[1] As the first update to the UDA in more than a decade, it made the prior agreements obsolete, resulting in banks being presented with a fresh evaluation of whether holding bankruptcy deposits remained consistent with their deposit acquisition strategies in light of the increased costs in supporting them.

An alternate strategy exists, known as the "reciprocal deposit program." Well-established outside of bankruptcy, hundreds of banks actively leverage the reciprocal deposit program and flow billions of dollars securely through it daily. It mitigates risk and enables fiduciaries to successfully serve out their mandate of oversight.

The instability of the U.S. banking system that led to the 2023 bank failures, including Silicon Valley Bank, Signature Bank and First Republic Bank, among others, served as an impetus to evaluate the UDA agreement and reinforce the safety measures for protecting bankruptcy estate funds. While the U.S. Trustee assessed whether the systems in place functioned as intended during the 2023 bank failure crisis, it also conducted a comprehensive review to identify new ways to modernize and streamline its banking practices for bankruptcy deposits.

Furthermore, the U.S. Trustee standardized the UDA across all bankruptcy districts to eliminate inconsistences that previously existed, making the process more uniform regardless of the jurisdiction. Every bank that wants to be an authorized depository must execute the updated UDA to continue holding bankruptcy funds, as failure to do so would disqualify them from doing so.

Understanding Collateralization Requirements and Challenges

The U.S. Trustee Program (USTP)[2] oversees bankruptcy deposit administration based on its mandate established via UDAs, which must be executed by every bank that seeks eligibility to hold bankruptcy funds. Fiduciaries must address unique aspects to both managing and maintaining these funds, including industry-specific collateralization, statements and collateral reporting.

For those entrusted with the oversight of bankruptcy deposits, exercising the role of fiduciary and the attendant responsibilities, including ensuring their security, has become even more challenging over the last few years.

1 "U.S. Trustee Program Updates Safeguards for Bankruptcy Funds Through Modernized Depository Agreement," U.S. Dep't of Justice (June 6, 2024), justice.gov/archives/opa/pr/us-trustee-program-updates-safeguards-bankruptcy-funds-through-modernized-depository (last visited Oct. 20, 2025).

2 The USTP has oversight over bankruptcy administration in all regions and districts with the exception of those in Alabama and North Carolina, which are overseen by Bankruptcy Administrators.

While the regional bank failures of March 2023 are technically in the rearview mirror, bankruptcy trustees, receivers, and assignees charged with conserving and protecting the assets of the estates they oversee continue to face persistent challenges emerging from the bank failure fallout. These increased pressures can be attributed to the rising costs and complexities faced by banks authorized to hold bankruptcy funds. Fewer U.S. Trustee-approved banks can offer the requisite collateral for each individual bankruptcy account that exceeds the insurance coverage provided by the federal government, which currently stands at $250,000.

The FDIC, which operates as an agency of the federal government, backs the first $250,000, formally known as the standard maximum deposit insurance amount (SMDIA). Many estates hold assets and deposits well in excess of this threshold, and for every dollar above the SMDIA, the fiduciary must obtain coverage at 115 percent. For example, if the amount is $500,000, the FDIC covers the first $250,000, whereas the residual $250,000 must be insured by collateral in the amount of $287,500.

UDAs outline two forms of approved collateral coverage: U.S. treasuries and surety bonds. The cost of treasuries fluctuates based on demand, and they are currently expensive relative to historic "norms." Furthermore, not all banks actively manage portfolios with treasuries, which come with terms (*e.g.*, six-month) and correspondingly early-break expenses if, for example, an interim distribution or another unexpected payment associated with the estate occurs.

The historical instrument used most frequently to cover an amount above the SMDIA has been insurance in the form of surety bonds secured and placed by the banks through third-party insurance providers. Insurance providers ostensibly risk-rate banks to determine the corresponding cost of the insurance that they will place.

After the bank failures in the spring of 2023, the cost of applicable surety bonds rose dramatically and has stayed at an elevated rate. Compounding this difficulty in obtaining collateral (as not only has the price increased, but many insurance providers no longer offer coverage), some banks have elected to get out of the business of supporting bankruptcy funds. This has led to a misalignment between supply and demand when fiduciaries seek out a secure location for estate monies.

Reciprocal Deposit Programs Provide a Viable Solution

As the depository landscape is changing, so too are the options that fiduciaries have available to them. Reciprocal deposit programs, which have been used for decades outside of bankruptcy with billions of dollars flowing through them on a daily basis, hold promise as a viable solution. Essentially, they function with one lead bank that syndicates deposits across a network of other banks. This approach ensures protection for all accounts under the FDIC-insured amount without the need for collateralization. The U.S. Trustee has been actively engaged in discussions to evaluate this program and is planning a pilot program in selected districts in consultation with a leading bankruptcy services provider.

Reciprocal programs enable deposits associated with accounts that exceed the SMDIA to be spread across participating network banks, ensuring through a programmatic approach that no single account at any bank exceeds $250,000. In practical terms, if a trustee sold a piece of commercial real estate on behalf of an estate for $1 million, the trustee electing to participate in the program would place the monies with the initial depository retaining $250,000, and the other $750,000 through the program would flow through a settlement and custodial bank to three participating network banks. Those network banks contemporaneously "reciprocate" by sending $250,000 of funds each from other accounts back to the initial depository. By these means, the entirety of the $1 million is backed by the FDIC, and the trustee need not manage the complexity and cost associated with collateralizing the funds.

Under a reciprocal deposit program, trustees would be empowered to manage bankruptcy deposits with the backing of the federal government while maintaining full liquidity. They also would eliminate the macrorisks of the banking environment and alleviate the burden on banks and fiduciaries overseeing funds associated with bankruptcy matters. Bankruptcy filings have continued their consistent uptick since the trough of filings in 2020, and with current macroeconomic uncertainties presenting potentially challenging conditions, the bankruptcy industry should expect more dollars to flow through it, further exposing the aforementioned banking constraints.

Prudence encourages more proactive strategies, such as reciprocal deposit programs, so that fiduciaries can avoid the dilemma of having third-party insurance companies revoke coverage, which occurred immediately after the bank failures. At that time, almost every carrier on every policy issued contractual 90-day revocation notices, leaving fiduciaries scrambling to comply with their safeguarding responsibilities. The bankruptcy industry should not allow itself to be exposed to the risk of another run by third-party insurance carriers that decide to revoke their surety bonds, exposing bankruptcy deposits to risk and the banks to noncompliance with their responsibilities as authorized depositories.

Key Considerations for Fiduciaries

Regardless of the path chosen for each client's depository needs, fiduciaries should follow best practices and keep certain considerations in mind to ensure that they are in full compliance with evolving regulations as they find new ways to optimize their clients' bankruptcy funds. There are a few priorities and guiding principles to keep in mind in the process.

Make Planning and Transparency a Priority

Regardless of the approach taken in managing a client's deposits, fiduciaries should plan ahead as much as possible to anticipate potential obstacles or challenges. Maintaining

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transparency with clients, banking partners and all involved stakeholders will also help to minimize roadblocks or surprises along the way.

Communicate with Your U.S. Trustee or Bankruptcy Administrator

If you anticipate receiving a large deposit for a case or estate that you are managing, a best practice is to advise and coordinate with your regional U.S. Trustee or Bankruptcy Administrator. It is required that the bank where you will deposit the funds be an authorized depository, and the U.S. Trustees and Bankruptcy Administrators traditionally maintain active lists. Some trustee software providers can not only provide a list, they have integrated with multiple authorized depositories, ensuring that the reporting and statements are formatted in a manner for U.S. Trustee and Bankruptcy Administrator review.

Provide Advance Notice to Banking Partners

To allow banking partners to prepare for collateralization and ensure compliance with all requirements, fiduciaries should provide them with as much notice as possible about bankruptcy deposit amounts, and the expected timing and duration.

Ensure that Compliance Needs Are Being Met

Providing detailed information to banking partners helps ensure compliance with collateralization requirements and reduces the risk of noncompliance penalties. As with any other aspect of the bankruptcy process, fiduciaries should carefully follow the proper procedures for depositing bankruptcy funds. Significant consequences and penalties can occur for those who may stray from the rules, even if unintentionally. In extreme cases, trustees can be removed from the panel for not adhering to the UDA.

Partner with Knowledgeable Experts and Service-Providers

Fiduciaries should focus their efforts on case administration and optimizing returns for creditors, rather than on seeking out bank partners. By partnering with knowledgeable service-providers who understand the depository landscape and are experts in the process, they can save valuable time and dedicate their attention to where it is most needed.

Conclusion

The regional bank failures of 2023 represented a watershed moment for authorized depositories and bankruptcy funds. It exposed a significant vulnerability in commonly used practices due a reliance on systems and third parties with inherent and unavoidable risks.

However, the bankruptcy community can remediate this situation with reciprocal deposit programs that enable them to safeguard funds with the full faith and backing of the U.S. government, regardless of whether the underlying banking institution fails. In their roles as fiduciaries, trustees stand to benefit significantly as advocates for this and other new solutions that ultimately serve the best interests of their clients in today’s uncertain economic climate. abi

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