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**Stuart B. Allen, JD, CTFA**  
President & CEO

## STRUCTURE MATTERS

Dear clients and friends,

Over the years we have emphasized Allen Trust Company's status as a locally-owned independent trust company, a structure whose virtues were perhaps underappreciated by some until now. In a time when the giants of the financial world are falling hard and fast, we wanted to reassure you of our firm's inherent stability and soundness. The following describes guidelines adopted by the State of Oregon for regulation of trust companies and the protections which that framework ensures:

*"At times like these when depositor-customers are increasingly expressing concern about the safety of and protections for their customer accounts in both broker-dealers and banks, it may be useful for trust bankers to be reminded of the special trust law and regulatory protections (particularly under the provisions of the National Bank Act and the regulations of the Office of the Comptroller of the Currency (OCC) provided to funds held in separate trust accounts in the trust divisions of banks, particularly national banks. In fact, the extensive protections afforded trust account customers against the risk of possible financial institution insolvency may be particularly comforting and attractive to a number of account customers.*

*Under applicable principles of trust law, trust assets are not property of the trustee individually, but rather are held by the trustee in a fiduciary capacity for the benefit of the designated beneficiaries of the trust. Identifiable trust accounts held by a bank as trustee are therefore not subject to the claims of general depositors or other creditors of the bank in its individual capacity.*

*These general principles of trust law are recognized, enforced and supplemented under both the National Bank Act and the regulations of the OCC, applicable to a national bank's trust activities. Both Sections 92a(c) of the National Bank Act, 12 U.S.C. 592a(c), and Section 9.13 of the OCC's regulations (12 CFR 9.13), require banks to segregate and hold separate trust assets from the general assets of the*

*bank. Section 92a(d) of Title 12 requires that funds deposited or held in trust in a national bank "shall be carried in a separate account and shall not be used by the bank in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Comptroller of the Currency," while Section 92a(e) of Title 12 provides that, in the event of a bank failure, "the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the bank." Finally, Section 9.16 of the OCC's regulations (12 CFR 9.16), which governs the status of trust accounts in the event of receivership or voluntary liquidation of a national bank, provides that in such event trust accounts are to be either promptly closed or transferred to a substitute trustee.*

*Thus, trust accounts held in the trust divisions of national banks can in appropriate situations be particularly attractive to depositor-customers seeking safeguards other than or beyond those already accorded for broker-dealers under SIPA and commercial banks under the FDIC, including not being subject to a statutory monetary cap."*

(From "Trusting Trust Accounts: Comparative Safeguards of Customer Accounts" by Harold L. Kaplan, Trusts and Investments Magazine September-October 2008)

While we never anticipated the scope and timing of the current crisis, we did suspect heavy weather might be on the way and began battenning down the hatches last year. While other investment managers are now in "reaction mode" and scrambling just to retain clients, we are getting referrals and growing our client base! As for the markets, what feels like a free-fall now will stabilize, and we will all adjust to the new environment. Certainty is the antithesis of panic, and in some measure it's coming: with the election (not to mention the World Series!) just around the corner, some fundamental questions, at least, will be answered.

Call us as you have concerns or questions, and if you have friends, family or clients, who could use our help, send them along to us. We're going to be here next week, next year, and for a long time to come.