

To: The Federal Deposit Insurance Corp.

Re: FDIC RIN 3064-AD37

## **Request for Action regarding IOLTA and IRETA Accounts**

Thank you for the opportunity to comment on Interim Rule regarding the Temporary Liquidity Guarantee Program (TLGP). I am commenting on behalf of myself, and Horizon Bank. Horizon Bank is a \$1.45 billion commercial bank located in the Puget Sound region of Western Washington State. We have 19 offices that serve the entire Puget Sound region, from south of Tacoma to the Canadian border. As a commercial bank, we number Attorneys, Real Estate Settlement companies, Real Estate Brokers, and the individuals and business who do business with them among our valued customers.

Overall, I believe that the Interim Rule will serve our customer base well, with one important exception. That exception is the exclusion of IOLTA and IRETA funds from the TGLP. The funds in IOLTA and IRETA accounts should be included in the TGLP for the reasons I have listed below.

1. Attorneys, Real Estate Settlement companies, and Real Estate Brokers are required to maintain these accounts by statute. They do not have the option of maintaining a non-interest earning account to ensure their clients funds are adequately insured by the FDIC.
2. The interest earned on these accounts do not benefit the Attorneys, Real Estate Settlement companies, or Real Estate Brokers. In Washington State, interest on IOLTA accounts is paid to the Legal Foundation of Washington, and the interest on IRETA accounts is paid to the Washington State Department of Licensing.
3. The funds held in IRETA and IOLTA accounts ultimately belong to the individuals or businesses that do business with the Attorneys, Real Estate Settlement companies, and Real Estate Brokers. The consumers and businesses are who would be ultimately hurt by the not including IOLTA and IRETA accounts in the TGLP.
4. Individuals and businesses that do business with Attorneys, Real Estate Settlement companies, and Real Estate Brokers that maintain the IOLTA and IRETA accounts may also have their own funds on deposit with the same financial institution that the Attorneys, Real Estate Settlement companies, and Real Estate Brokers do business. Most consumers and businesses are not aware of the financial institution their Attorneys, Real Estate Settlement companies, or Real Estate Brokers do business with – or of the potential that this may affect their FDIC insurance at the same financial institution.
5. IOLTA and IRETA accounts are very similar in nature to the Escrow accounts that are covered under the TGLP. The only difference is that IOLTA and IRETA accounts must be interest-earning by statute.
6. The interest earning on IOLTA and IRETA accounts is very similar to the third-party payments that are permissible under Regulation D. These payments are not considered interest under Regulation D or by the TGLP. Regulation D permits the interest payments on IOLTA and IRETA accounts, just as it permits third-party payments. Both exceptions should be permitted under the TGLP.
7. IOLTA and IRETA accounts should be included in the TLGP, as the reason that they pay interest is for a public good. The State of Washington, like every other State in the Union, uses interest on lawyers' trust accounts (IOLTA) to pay for legal services provided to the needy.

8. IOLTA and IRETA accounts should be included in the TLGP because their exclusion could irreparably harm the Attorneys, Real Estate Settlement companies, and Real Estate Brokers, as well as the customers of these businesses – most of which are consumers. Funds typically remain in an IOLTA typically for a very short period of time, often only long enough for a check to clear. It will however be impossible for a client to obtain full deposit insurance for funds that they consider non-interest bearing as a large check will have to be deposited in one bank before being split between multiple accounts in multiple institutions.

I strongly urge the FDIC to include IOLTA and IRETA funds in the unlimited deposit insurance program of the TLGP. It is for the protection of consumers and businesses that I urge the FDIC to make this change. The loss of these funds would be catastrophic for the parties involved, and would further weaken the current financial and real estate markets.

Thank you for your consideration of my request, and I will provide further information upon request.

David McCrea  
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