FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-2-2011
January 21, 2011

COVERAGE, DISCLOSURE, AND REGULATORY REPORTING REVISIONS FOR INTEREST ON LAWYERS TRUST ACCOUNTS (IOLTAs)

Summary: The FDIC Board of Directors (Board) has issued a final rule to implement the December 29, 2010, amendment to the Federal Deposit Insurance Act (FDI Act) to include Interest on Lawyer Trust Accounts (IOLTAs) within the definition of a "noninterest-bearing transaction account" for purposes of the temporary, unlimited deposit insurance coverage afforded to such accounts by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). In addition, this amendment to the FDI Act affects year-end 2010 regulatory reporting by insured depository institutions (IDIs).

Distribution:
FDIC-Insured Institutions

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Chief Executive Officer
Chief Financial Officer
Head of Deposit and Branch Operations
Chief Compliance Officer
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Regulatory Report Preparer

Related Topics:
Deposit Insurance Coverage
12 C.F.R. Part 330

Attachments:
- Final Rule to Amend FDIC Deposit Insurance Regulations to Include Interest on Lawyers Trust Accounts in Temporary Coverage for Noninterest-Bearing Transaction Accounts
- Notice of Changes in Temporary FDIC Insurance Coverage for Noninterest-Bearing Transaction Accounts – Printable Version (PDF Help)

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Note:
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Highlights:

- On December 29, 2010, the President signed legislation that amended the FDI Act to include IOLTAs within the definition of a "noninterest-bearing transaction account," thus expanding the temporary unlimited insurance coverage authorized by section 343 of the Dodd-Frank Act to include IOLTAs. On January 18, 2011, the FDIC issued a final rule revising its deposit insurance regulations to reflect this amendment to the FDI Act.
- The final rule requires that by no later than February 28, 2011, each IDI that offers noninterest-bearing transaction accounts must post prominently an amended notice in its office lobbies and on its Web sites. The notice explains that IOLTAs will be fully insured through December 31, 2012.
- In their year-end 2010 regulatory reports, IDIs should ensure that their reporting on noninterest-bearing transaction accounts (as defined in the Dodd-Frank Act) of more than $250,000 and, if applicable, estimated uninsured deposits incorporates the amended treatment of IOLTAs.
- This FIL supplements but does not replace FIL-76-2010.

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Coverage, Disclosure and Regulatory Reporting Revisions for IOLTAs

Background

On November 9, 2010, the FDIC's Board of Directors (Board) issued a final rule to implement section 343 of the Dodd-Frank Act (November final rule). *See* FDIC FIL-76-2010. Section 343 of the Dodd-Frank Act provides unlimited deposit insurance coverage for "noninterest-bearing transaction accounts" at all insured depository institutions (IDIs) from December 31, 2010, through December 31, 2012. Unlike the definition of "noninterest-bearing transaction account" in the FDIC's Transaction Account Guarantee Program (TAGP), the *original* definition in the Dodd-Frank Act did not include IOLTAs. As part of the final rule issued November 9, 2010, the FDIC required IDIs participating in the TAGP to notify IOLTA customers that IOLTAs would not receive unlimited deposit insurance coverage after December 31, 2010 (when the TAGP terminated).

On December 29, 2010, President Obama signed into law an amendment to the FDI Act including IOLTAs within the definition of "noninterest-bearing transaction accounts." Thus, IOLTAs will receive unlimited insurance coverage at all IDIs from December 31, 2010, through December 31, 2012. On January 18, 2011, the Board issued a final rule to implement this statutory amendment.

The Final Rule

The final rule updates the FDIC's deposit insurance regulations to reflect the December 29 amendment to the definition of "noninterest-bearing transaction accounts" to include IOLTAs, thereby providing such accounts with unlimited deposit insurance coverage.

The final rule also revises the prescribed notice that each IDI offering "noninterest-bearing transaction accounts" must post prominently in the lobby of its main office, in each domestic branch and, if it offers Internet deposit services, on its Web site. The amended notice provides that noninterest-bearing transaction accounts are fully insured until December 31, 2012, and, in addition, IOLTAs are included in the definition of "noninterest-bearing transaction account." Under the final rule, IDIs are required to post the amended notice no later than February 28, 2011.

Finally, the final rule eliminates the requirement that IDIs participating in the TAGP notify IOLTA holders that, as of January 1, 2011, such accounts no longer will be eligible for unlimited protection.

FDIC Guidance for IDIs participating in TAGP at year-end 2010

The November final rule required IDIs participating in the TAGP to notify IOLTA customers by mail that IOLTAs would not receive unlimited insurance coverage starting January 1, 2011. IDIs that already sent the required individual notices are encouraged, but not required, to send a revised notice to IOLTA depositors explaining that IOLTAs will be fully insured through December 31, 2012. IDIs that have not already sent the required individual notices need not send any such notice to IOLTA depositors.

Regulatory Reporting Revisions for IOLTAs

Effective December 31, 2010, all IDIs were required to begin reporting the quarter-end dollar amount and number of noninterest-bearing transaction accounts (as defined in the Dodd-Frank Act) of more than $250,000 in new data items in their respective regulatory reports, i.e., the Consolidated Reports of Condition and Income (Call Report) for banks, the Thrift Financial Report (TFR) for savings associations, and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) for insured branches. The instructions for reporting these new data items along with revised instructions for reporting estimated uninsured deposits that were issued in late December 2010, prior to the enactment of the amendment to section 343 of the Dodd-Frank Act, incorporated the original Dodd-Frank Act definition of "noninterest-bearing transaction account" and therefore did not include IOLTAs. This amendment necessitates a revision of the recently issued instructions for reporting on noninterest-bearing transaction accounts and estimated uninsured deposits.

Accordingly, the FDIC, in consultation with the other banking agencies, is providing the following revised guidance for year-end 2010 regulatory reporting:

- For Call Report Schedule RC-O, Memorandum items 5.a and 5.b; TFR Schedule DI, Line Items DI580 and DI585; and FFIEC 002 Schedule O, Memorandum items 5.a and 5.b, IDIs should treat IOLTAs as noninterest-bearing transaction accounts. Thus, IDIs should include those IOLTAs with balances of more than $250,000 in the total amount and number of Dodd-Frank Act noninterest-bearing transaction accounts of more than $250,000 that they report in these data items.

- For Call Report Schedule RC-O, Memorandum item 2; TFR Schedule DI, Line Item DI210; and FFIEC 002 Schedule O, Memorandum item 2, IDIs should treat all noninterest-bearing transaction accounts, including all IOLTAs, as insured deposits and therefore exclude the balances of these accounts from the estimate of uninsured deposits that they report in this data item. This data item is required to be completed by banks and savings associations with $1 billion or more in total assets and by insured branches with $1 billion or more in total claims on nonrelated parties.

Revised instructions that reflect the amended Dodd-Frank Act definition of "noninterest-bearing transaction accounts" will be included in updated regulatory reporting instructions that will be issued by the Federal Financial Institutions Examination Council and its member agencies for the March 31, 2011, report date.