



To maintain the RI Law Center ■ To foster services to the legal profession and the community

RHODE ISLAND BAR FOUNDATION

John A. Tarantino
President

October 13, 2010

Michael A. St. Pierre
Vice President

Allan M. Shine
Secretary

James A. Jackson
Treasurer

Helen Desmond McDonald
Executive Director

Mr. Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20420

Re: FDIC rule: RIN 3064-AD 37

Dear Mr. Feldman,

I am writing to you on behalf of the Rhode Island Bar Foundation, administrator of the Rhode Island Interest on Lawyer Trust Accounts (IOLTA) Program. We have serious concerns about the proposed rule to implement the section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) which provides temporary unlimited coverage for non interest-bearing transaction accounts.

IOLTA accounts are presently included within the current definition of non-interest bearing accounts that receive unlimited coverage under the existing Transaction Account Guarantee (TAG) program. However, IOLTA accounts would be excluded in the revised Regulation, and thus cease to be fully covered effective January 1, 2011. Just before the Senate recessed for the November elections, Senators Merkley, Johnson, Corker and Enzi introduced bi-partisan legislation that would correct the unintended exclusion of IOLTA accounts in the Dodd-Frank Act.

The proposed notification requirements of the Dodd-Frank Act, which were drafted prior to the filing of the Senate Bill, if implemented, will likely cause serious consequences and confusion:

- The proposed notification requirements, if implemented, will likely cause significant damage to the IOLTA Program, undermine existing banking relationships and cause

unnecessary confusion to the hundreds of thousands of lawyers with IOLTA accounts, before any action can be taken on the bill.

- The pending Senate Bill would make the proposed changes unnecessary. The proposed Regulations, including the notification requirement, were drafted prior to the filing of the Senate Bill and thus the impact on IOLTA was not taken into consideration. Attorney and law firm depositors, unaware of the potential fix to this problem, will be forced to act upon receiving such a notification.
- Attorneys and firms holding significant funds in their existing IOLTA accounts will be forced to decide whether to keep funds in their existing account or move them to the largest financial institutions presumed “too big to fail,” undermining the stability of large IOLTA funds at participating TAG institutions.
- Banks that follow the notification directive prior to congressional action will have to rescind the notification should the legislation be passed, causing substantial confusion among depositors about their insured funds and the potential for significant disruption of existing banking relationships.

On behalf of the Rhode Island Bar Foundation, I want to take this opportunity to thank the FDIC for its support and the current inclusion of IOLTA in the unlimited deposit insurance coverage. Inclusion has been, and continues to be critical for a variety of reasons:

- IOLTA’s are effectively non-interest bearing accounts for the account owner and the owner of the funds deposited therein. The IOLTA program holds the entire beneficial interest in the account; and IOLTA accounts would qualify for the unlimited coverage absent the requirements imposed by IOLTA Programs. Thus, they should continue to be included in the types of accounts afforded full coverage.
- IOLTA generates much-needed revenue that is used to provide legal services to the poor. Today, this program is more critical than ever especially with increases in foreclosures and evictions. Interest generated from IOLTA is paid to IOLTA programs that issue grants for the provision of civil legal aid to the poor, the administration of justice, and law-related education – which are vital to our judicial system’s guarantee of equal access to justice for all.
- Since 1985, over 20 million dollars of interest generated from Rhode Island IOLTA accounts has been used to fund legal aid programs that provide civil legal services to the poor, particularly in the areas of housing and family law.

October 13, 2010

Page 3

For all of these reasons, we respectfully request that the FDIC delay the implementation of the proposed Regulation and notification requirement relative to IOLTA accounts until Congress passes the pending Senate Bill or takes other corrective action. We also urge you to support unlimited deposit insurance for IOLTAs.

Sincerely,

A handwritten signature in cursive script that reads "John A. Tarantino".

John A. Tarantino

President