

Arizona Foundation for  
**LEGAL SERVICES  
& EDUCATION**

October 12, 2010

Mr. Robert E. Feldman  
Executive Secretary  
Federal Deposit Insurance Corporation  
Attention: Comments  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429

RE: FDIC rule – RIN 3064-AD 37

Dear Mr. Feldman:

On behalf of the State Bar of Arizona and Arizona Foundation for Legal Services & Education, we join other Interest on Lawyers Trust Accounts (IOLTA) programs in bringing the concerns arising from the proposed rule to implement the section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that provides temporary unlimited coverage for non interest-bearing transaction accounts to your attention.

Although included within the current unlimited coverage guidelines under the existing Transaction Account Guarantee (TAG) program, should the proposed rule be implemented, IOLTA accounts would be excluded in the revised Regulation and cease to be fully covered effective January 1, 2011. As we are certain you have been informed, just before the Senate recessed for 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 Wall Street Reform and Consumer Protection Act.

As Arizona IOLTA administrators, we support this correction and continued inclusion of IOLTA in the existing TAG program. Further, we respectfully request a delay in the proposed regulation implementation and associated notification requirement based on the following:

1. **The unique nature of an IOLTA account** – IOLTA accounts should remain included in the TAG program because neither the owners of the funds nor the depositor of funds (the attorney) benefits from the interest on the IOLTA account. Therefore, for both of these entities, the accounts are similar to non-interest bearing accounts and should continue to be afforded full coverage.
2. **Possible negative impact on smaller community banks** – If the FDIC does not delay the implementation of the proposed regulation and notification requirement, numerous attorney and law firm depositors, unaware of the potential fix to this problem offered by

the abovementioned Senators, may decide to move their existing IOLTA accounts from smaller community banks to larger, national banks.

The Arizona IOLTA program offers a tremendous benefit to the most vulnerable citizens in our state by addressing their legal needs in crisis and offering education of their rights and responsibilities as citizens. The success of this program, however, is dependent upon consideration of all the stakeholders involved, including attorneys and their clients, banks --both large and small--, and the beneficiaries of the interest earned. The proposed implementation of the notification requirement could unnecessarily and negatively impact these stakeholders as well as the Arizona IOLTA program as a whole.

We respectfully request that the FDIC delay implementation of the proposed Regulation and notification requirement relative to IOLTA accounts until Congress passes the pending Senate bill or other corrective legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "A.P. Bayham, Jr.", written in a cursive style.

Mr. Alan P. Bayham, Jr.  
State Bar of Arizona President

A handwritten signature in black ink, appearing to read "George H. Lyons", written in a cursive style.

Mr. George Lyons  
Arizona Foundation for Legal Services & Education President