



October 12, 2010

**Minnesota
State Bar
Association**

600 Nicollet Mall
Suite 380
Minneapolis, MN 55402-1039

www.mnbar.org

Telephone
612-333-1183
National
1-800-882-MSBA
Fax
612-333-4927

President
Terry Votel
St. Paul

President-Elect
Brent E. Routman
Minneapolis

Treasurer
Robert Enger
Bemidji

Secretary
Phil Duran
Minneapolis

Tim Groshens
Executive Director

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

RE: FDIC rule: RIN 3064-AD37

Dear Mr. Feldman:

On behalf of the Minnesota State Bar Association, I want to raise very serious concerns about the potential impact on the Minnesota IOLTA Program of the rule proposed 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. IOLTA accounts, included within the current definition of non-interest bearing accounts receiving unlimited coverage under the existing Transaction Account Guarantee (TAG) program, would be excluded in the revised Regulation, and thus cease to be fully covered as of January 1, 2011. The proposed regulation is unnecessary, threatens to needlessly confuse lawyers and banks, and could further reduce already catastrophically low IOLTA revenue.

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. On behalf of the more than 16,000 members of the MSBA, I request that implementation of the proposed regulation be delayed to allow the Senate to act on the pending bill.

Over 12,000 Minnesota lawyers, from 2171 law firms, reported IOLTA accounts in 2010. They have almost 5,000 accounts in 363 banks, with over \$150 million on deposit. The proposed notification requirements, which were drafted prior to the filing of the Senate Bill, would cause serious confusion, undermine existing banking relationships, and possibly worsen the current crisis in IOLTA revenue.¹

¹ Because of the recession and historically low interest rates, income from Minnesota IOLTA accounts has decreased by 80% from 2007 levels. The expected total amount of grant funds available to legal services program in the upcoming two-year grant cycle will be at least \$2 million per year below current levels.

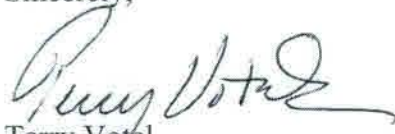
Minnesota lawyers, who will likely be unaware of the pending legislative fix, will be forced to act upon receiving the proposed notification. Those attorneys holding significant client funds in IOLTA accounts would be forced to decide whether to keep those funds in their existing IOLTA account, or move the accounts to the largest financial institutions presumed “too big to fail”. Additionally, banks following the notification directive prior to congressional action will have to rescind that notification should the legislation be passed, causing significant confusion among depositors about their insured funds and the potential for significant disruption of existing banking relationships. Finally, lawyers may feel compelled to remove funds from IOLTA accounts entirely and place them in fully insured accounts, damaging a significant source of funding for civil legal services to the poor in Minnesota.

There is a national effort affirmatively seeking Congressional action on this matter before the end of the year. If Congress acts, this movement of funds would have been completely unnecessary, but the damage to the smaller banks and IOLTA funding would already have occurred.

Accordingly, 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 other corrective legislation. Further, we believe it is important that the FDIC continue its current policy of supporting unlimited deposit insurance or other full guarantee coverage for IOLTA accounts.

Thank you for the opportunity to offer these comments.

Sincerely,



Terry Votel
MSBA President