

From: Charles J. Northrup [mailto:cnorthrup@isba.org]
Sent: Thursday, October 14, 2010 12:34 PM
To: Comments
Cc: Mark D. Hassakis; Robert E. Craghead; Charles J. Northrup
Subject: RIN 3064-AD37

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

Re: RIN 3064-AD37

Dear Mr. Feldman:

On behalf of its 32,000 members, the Illinois State Bar Association requests that the Federal Deposit Insurance Corporation delay that portion of its proposed rulemaking requiring insured depository institutions to notify Interest on Lawyers Trust Accounts ("IOLTA") depositors that beginning January 1, 2011, IOLTA accounts no longer will be eligible for unlimited deposit insurance coverage.

As you know, under the FDIC's Transaction Account Guarantee Program IOLTA accounts are included in the definition of noninterest-bearing transaction accounts. As such, all funds held in an IOLTA are fully guaranteed by the FDIC. However, under the recently enacted Dodd-Frank Wall Street Reform and Consumer Protection Act, IOLTA accounts are not included within the definition of noninterest-bearing transaction accounts. Under Dodd-Frank, effective January 1, 2011, funds in an IOLTA account will only be guaranteed up to \$250,000. It appears that the exclusion of IOLTA from the definition of noninterest-bearing transaction accounts was an oversight. In fact, Senator Merkley has introduced bi-partisan legislation to correct this and it is supported by Senators Corker and Enzi.

Notwithstanding the introduction of the bi-partisan legislation and the anticipated inclusion of IOLTA back into the definition of a noninterest-bearing transaction account, the FDIC proposed rulemaking requires financial institutions handling IOLTA to notify IOLTA depositors that those accounts will no longer be eligible for unlimited protection. However, requiring such notice at this time will result in significant burden and confusion on the part of lawyers and financial institutions. Lawyers and law firms holding client funds will be compelled to reassess how best to protect those client funds. This may include transferring those funds from a single institution to many institutions to take advantage of the \$250,000 deposit insurance guarantee or to larger banks that may be perceived to present minimal risk of failure. Either of these actions presents an administrative burden on lawyers and lawfirms. Either of these actions may also serve to reduce the amount of interest passed on to those entities (in Illinois the Illinois Lawyers Trust Fund) that rely upon the interest to fund legal aid and worthwhile access to justice programs. In addition, in the event the Merkley legislation (or some derivative thereof) passes, financial institutions will likely be compelled to retract or clarify the incorrect notice prematurely sent. This will create an additional administrative burden on them. All of these potential concerns

can be eliminated by waiting until the Congress has acted to reinstate unlimited insurance coverage on IOLTA.

For all the above reasons, the ISBA asks that the FDIC delay implementation of the proposed rulemaking, specifically the notification requirement related to IOLTA, until Congress has had an opportunity to pass legislation restoring unlimited insurance coverage on IOLTA.

Very truly yours,

Mark D. Hassakis
President, Illinois State Bar Association