October 15, 2010

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

Sent by Email: Comments@FDIC.gov
Re: RIN 3064-AD37

Dear Mr. Feldman:

The undersigned legal services, consumer and other organizations write to urge you to delay any notice to IOLTA account holders about ineligibility for FDIC insurance until December 30, 2010 or later. We fear that earlier notice may cause attorneys to withdraw their funds from such accounts unnecessarily while harming the legal services programs that depend on the interest from IOLTA accounts.

Proposed FDIC regulations regarding implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act would require notice no later than December 31, 2010 to IOLTA account depositors that the accounts would no longer be eligible for unlimited FDIC coverage effective January 1, 2011. However, pending legislation would allow for continued unlimited FDIC coverage for IOLTA accounts, and we are hoping the legislation will be enacted this year.

The FDIC has supported IOLTA programs in the past but including IOLTA accounts in the Transaction Account Guarantee Program (TAGP). The FDIC action recognized that IOLTA accounts are functionally non-interest bearing to the depositor owner of the IOLTA account, and non-interest bearing to the owner of the funds in the IOLTA trust account. The IOLTA program provides critically needed non-tax funding for civil legal services for indigent and elderly Americans by leveraging accounts that would normally pay no interest to anyone. IOLTA funding helps prevent homelessness, provides protection to women and children from abusers, and assists the elderly confronting predatory lending and consumer fraud.

A bill is currently pending in the U.S. Senate that would correct the unintended exclusion of unlimited coverage for IOLTA accounts. Banks sending the proposed notification prematurely will have to rescind that notification when the legislation is passed, causing significant confusion among depositors about the insured funds. Upon receiving the proposed notice, attorneys with significant deposits in their IOLTA accounts will be forced to decide whether to move the accounts to larger banks that are presumed "too big to fail" and be in compliance with state mandates, establish multiple IOLTA accounts at multiple banks and greatly increase administration of attorney trust accounts, or out of an over-abundance of caution, violate state rules and place the IOLTA trust account funds in non interest bearing, non IOLTA accounts to assure unlimited FDIC coverage. If the FDIC notice proves to be premature, and the legislation passes, attorneys are unlikely to go to the trouble to reinstate their IOLTA accounts.

We respectfully request the FDIC delay the proposed required notification requirement relative to IOLTA account depositors, allowing time for Congress to pass the pending Senate bill or other corrective action.

Sincerely,

AARP
Alliance for Justice
Community Legal Services of Philadelphia
Community Service Society
Consumers Union
Empire Justice Center
Jacksonville Area Legal Aid, Inc.
Legal Aid of Nebraska
Legal Aid of Western Missouri
Legal Aid Society of Southwest Ohio, LLC
Legal Services of South Central Michigan
Legal Services of Southern Piedmont
Lone Star Legal Aid
Maryland Legal Aid Bureau
National Association of Consumer Advocates (NACA)
National Center for Youth Law
National Senior Citizens Law Center
Northeast Ohio Legal Services
Public Citizen
Western New York Law Center, Inc.