



NATIONAL ASSOCIATION OF CONSUMER ADVOCATES

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October 15, 2010

VIA ELECTRONIC MAIL

Mr. 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:

The National Association of Consumer Advocates (“NACA”), a nationwide membership organization of consumer protection attorneys is writing to ask that you defer any notice to IOLTA account holders about ineligibility for FDIC insurance until December 30, 2010 or later. Many legal services organizations rely on the interest from these IOLTA accounts, and we are concerned that advance notice may cause account depositors to precipitously withdraw their funds.

As an organization that represents legal services attorneys, NACA sees firsthand the important work that legal services groups provide to low-income communities. At a time when record numbers of families are struggling with foreclosure, loss of employment, and surmounting debt, the need for legal service representation has grown exponentially. The IOLTA programs offer critical funding to legal service programs so that legal aid can be provided to the indigent, without taxing the public and at no cost to lawyers or their clients.

If lawyers suddenly moved their IOLTA trust account funds to noninterest-bearing accounts, the interest income received by IOLTA programs would be drastically reduced. As a result, legal service organizations that depend on this source of income would have to immediately cut back the important legal services they provide such as preventing foreclosures, protecting families from domestic violence, or assisting low-income clients who have fallen prey to predatory lending and consumer fraud.

The proposed FDIC regulations regarding implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank 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, legislation that was introduced just before the Senate recess by U.S. Senators Merkley, Johnson, Corker, and Enzi, would correct the unintended exclusion of IOLTA accounts in the Dodd-Frank Act. This bi-partisan bill would allow for continued unlimited FDIC coverage for IOLTA accounts and we hope that it will be enacted this year.

The FDIC’s proposed notification requirements, which were drafted prior to the filing of the Senate Bill, if implemented, could also cause a negative impact on our financial system. For instance, banks following the notification directive prior to congressional action will have to rescind that notification should the legislation be passed, causing significant uncertainty among depositors about their insured funds and the potential for significant disruption of existing banking relationships. Upon receiving the proposed notice, attorneys with significant deposits in their IOLTA accounts will be forced to (1) move the accounts to larger banks that are presumed “too big to fail” and be in compliance with state mandates, (2) establish multiple IOLTA accounts at multiple banks, or (3) 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.

Given the extreme harm advance that notice to IOLTA account holders about ineligibility for FDIC insurance would cause to legal service organizations, we respectfully request that the FDIC delay the implementation of the proposed notification requirement until Congress passes the pending Senate bill or takes other corrective action.

Sincerely,

Ira Rheingold
Executive Director
National Association of Consumer Advocates