

# NC Equal Access to Justice COMMISSION

A COMMISSION OF THE NORTH CAROLINA SUPREME COURT

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October 13, 2010

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 North Carolina Equal Access to Justice Commission, I am writing to raise serious concerns about the impact on the North Carolina Interest of Lawyers Trust Account Program (IOLTA) 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.

IOLTA accounts are now included with the current definition of non-interest bearing accounts and receive unlimited coverage under the existing Transaction Account Guarantee (TAG) Program. However, effective January 1, 2011, IOLTA accounts would be excluded under the revised Regulation. A remedy to extend unlimited coverage to IOLTA accounts has been introduced by Senators Mekley, Johnson, Corker and Enzi, but Congress recessed for the November elections before this bill could be considered.

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

The FDIC should consider the following factors in delaying implementation of the Dodd-Frank Act that provides temporary unlimited coverage for non-interest bearing accounts.

- The pending Senate bill would make the proposed changes unnecessary. The proposed Regulations, including the notification requirement, were drafted prior to the filing of the Senate bill and thus, the bill's impact was not taken into consideration. Attorney and law firm depositors, unaware of the potential fix to the problem, will be forced to act upon receiving such a notification.
- Banks following the notification directive prior to Congressional action will have to rescind the notification should the legislation be passed, causing significant confusion

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among depositors about their insured funds and the potential for significant disruption of existing banking relationships.

- In most states, attorneys and law firms holding significant funds for clients in IOLTA accounts would be forced to decide whether to keep those funds in their existing IOLTA account or to move their accounts to the largest financial institutions presumed “too big to fail,” undermining the stability of those large IOLTA funds at the thousands of participating TAG institutions. Some attorneys, even in mandatory jurisdictions, may feel compelled to remove funds from IOLTA accounts entirely and place them in fully insured accounts, damaging the IOLTA program in those states.

The NC Equal Access to Justice Commission recognizes NC IOLTA a vital source of funding for the provision of civil legal services to the poor through grants made to staffed legal services programs and volunteer lawyer programs that serve all 100 counties in the state and for other programs that work to improve the administration of justice. Since its first grants were made in 1984, NC IOLTA has provided over \$50 million to provide legal assistance for at-risk children, the elderly, the disabled, and the poor in need of basic necessities, and to help lawyers connect with those who need their pro bono assistance.

We urge the FDIC to delay the implementation of the proposed Regulation that could adversely affect IOLTA programs. Further, we encourage the FDIC to continue to support unlimited deposit insurance or other full guarantee coverage for IOLTA programs to avoid the potential wide-scale disruption of the banking system and irreparable harm to IOLTA programs nationwide.

Sincerely,



Jennifer M. Lechner  
Executive Director