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October 14, 2010

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

Via E-mail to comments@fdic.gov

Reference Number: RIN 3064-AD37

On behalf of The Massachusetts Interest on Lawyers Trust Accounts (IOLTA) Committee, I write to address very serious concerns we have about the terrible impact to the IOLTA Program and its funding of critical legal services to the poor in Massachusetts that will result from the proposed Rule to implement provisions of the Dodd-Frank Act providing temporary unlimited coverage for non interest-bearing transaction accounts if an unintentional drafting error is not corrected before implementation.

IOLTA accounts, although 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 based on what we understand was an unintentional technical omission, and thus cease to be fully covered effective January 1, 2011.

The loss of full coverage for IOLTA accounts in Massachusetts will create a number of serious problems, among them:

- A significant portion of the over \$1 billion held in Massachusetts IOLTA accounts is the result of individual client activity in excess of the standard maximum deposit insurance amount of \$250,000. Examples of this include funds associated with real estate closings, litigation and other settlements, as well as a variety of short-term corporate transactions. Attorneys holding those client funds, absent full FDIC coverage, will be forced to decide whether to move those funds to financial institutions that are presumed "too big to fail", causing wide scale disruption to existing banking relationships or, to improperly move the funds out of IOLTA accounts to non-interest bearing accounts that are fully insured, thereby damaging the IOLTA program.

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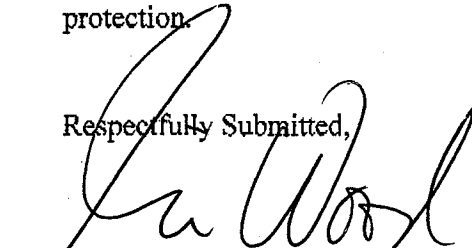
- Of the 200 participating IOLTA institutions in Massachusetts, only two are large national banks, and there are several regional banks. The majority of participating IOLTA banks are small commercial banks, and savings and co-operative banks. The migration of large volumes of IOLTA funds to only the few largest financial institutions would have a serious impact on the many smaller IOLTA institutions which would lose those funds, and particularly because such funds are often a sizeable portion of these small institutions deposit base. The migration of IOLTA funds to the largest financial institutions will also further unlevel the playing field and suppress competition for these deposits, which could further depress record low interest rates and the resulting IOLTA revenue.
- There is no obvious business solution to avoid this chaotic movement of IOLTA funds. By definition funds subject to IOLTA deposit are very short term, and typically lump sum type payments that are impractical to distribute among multiple insured depository institutions (to achieve full coverage). Similarly, while other depositors would appear to always have the option of using a non-interest bearing account if offered by their institution, no such option exists for lawyers who must comply with the IOLTA program. Moreover, the IOLTA program's entire revenue is dependant on the interest earned in IOLTA accounts, so movement to non-interest bearing accounts would be harmful to the IOLTA program.
- The proposed rule also includes a notification provision, that, if instituted, could cause wide-spread confusion among the 20,000 attorneys participating in the Massachusetts IOLTA program—even if congressional action subsequently remedies the technical oversight.

To prevent these negative effects and facilitate uninterrupted full coverage for IOLTA accounts, we request that the FDIC delay finalization or implementation of the proposed Regulation and the associated notification requirements until Congress has an opportunity to take action on this matter.

We also ask that the FDIC continue to support the policy of unlimited deposit insurance or other full coverage for IOLTA accounts for the reasons they were given such coverage under the original TAG program, including that they are

functionally similar to the types of non-interest-bearing transaction accounts receiving that coverage, and that absent the Massachusetts IOLTA Rule, these accounts would be non-interest bearing and qualify for unlimited deposit protection.

Respectfully Submitted,



Lisa C. Wood, Chair
IOLTA Committee