



M A S S A C H U S E T T S   B A R   A S S O C I A T I O N

CELEBRATING A CENTURY OF SERVICE TO THE PUBLIC, THE PROFESSION AND THE RULE OF LAW

Via E-Mail Transmission to:  
[comments@fdic.gov](mailto:comments@fdic.gov)

PRESIDENT  
Denise Squillante  
*Fall River*

October 15, 2010

PRESIDENT-ELECT  
Richard P. Campbell  
*Boston*

Robert E. Feldman  
Executive Secretary  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, N.W.,  
Washington, DC 20429

VICE PRESIDENT  
Jeffrey N. Catalano  
*Boston*

VICE PRESIDENT  
Douglas K. Sheff  
*Boston*

Subject: RIN 3064 – AD37

Dear Mr. Feldman:

On behalf of the Massachusetts Bar Association, I wish to comment on the potential unintended consequences to the Interest on Lawyers Trust Account Program (IOLTA) and legal aid to the poor related to the proposed regulations to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The 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. Due to pending legislation in the Senate that would allow for continued unlimited FDIC coverage for IOLTA accounts, we request the notice not be required for IOLTA accounts until after Congress has recessed, or if required, that the notice be sent to IOLTA account depositors *no earlier than* December 30, 2010.

We are grateful that under the FDIC's Transaction Account Guarantee Program (TAGP) which expires this December, that FDIC had included IOLTA accounts, to ensure that the critical resources generated by the IOLTA Program to provide legal representation to the poor not be adversely affected. Historically, the

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IOLTA program has been in existence for nearly 25 years and currently all 50 states and the District of Columbia have such programs. Thirty-seven states mandate IOLTA programs. The interest that these funds generate is essential to the administration of justice by providing revenue for basic civil legal services to the poor. IOLTA funds are generated by attorneys holding either a nominal amount of client funds or large amounts of client funds for brief periods of time like payroll accounts used by businesses.

IOLTA funds are essential because they provide more than 50 percent of revenues for legal aid programs in the Commonwealth. The recent recession has boosted unemployment and exacerbated problems in housing, transportation, health care and education. In addition, federal and state budget cuts are significantly affecting programs that protect the poor. The lingering effects of the recession will plague the poor and lower income families for years to come. During these challenging economic times legal services face a growing demand for assistance with critical civil legal problems.

Under the proposed notice requirement, attorneys holding significant client funds will be forced to decide whether to use their IOLTA accounts as required by SJC Rule or to place their client's funds in a fully insured, non-interest bearing deposit transaction account. Further, the proposed notice requirements may encourage some lawyers with large funds to remove their accounts from IOLTA entirely, thereby slashing IOLTA's ability to provide much needed grants for civil legal aid. Other attorneys and law firms may move their accounts to the largest financial institutions presumed "too big to fail", which would undermine the goals of stabilizing the banking environment and unnecessarily punish the states smaller financial institutions.

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

Sincerely,

  
Denise Squillante  
President