



TEXAS ACCESS TO JUSTICE COMMISSION

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October 15, 2010

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Via e-Mail Comments@FDIC.gov

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Dear Mr. Feldman:

Re: RIN 3064-AD37

On behalf of the Texas Access to Justice Commission ("Commission"), I would like to express my concern regarding the impact the amendments to the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") will have on the Interest on Lawyers Trust Account Program ("IOLTA"). These accounts provide critical and irreplaceable funding for civil legal services to the poor.

The proposed FDIC regulations regarding implementation of the Dodd-Frank Act would require notice no later than December 31, 2010, to IOLTA account depositors that accounts would no longer be eligible for unlimited FDIC insurance coverage effective January 1, 2011. There is currently pending legislation that would allow for continued unlimited coverage for IOLTA accounts. Therefore, we respectfully request the notice not be required for IOLTA accounts until after Congress has recessed, or if required, that the notice be given no earlier than December 30, 2010.

The Commission appreciates the FDIC's continued support and inclusion of IOLTA accounts within the definition of non-interest bearing accounts under the existing Transaction Account Guarantee ("TAG") Program. These IOLTA accounts, mandated by the Supreme Court in Texas, are essentially non-interest bearing to the depositor owner of the account and non-interest bearing

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to the owner of the funds in the IOLTA trust account. The revised Regulation, however, does not include coverage for IOLTA accounts and therefore IOLTA accounts would no longer be fully covered effective January 1, 2011.

Senators Merkley, Johnson, Corker, and Enzi have introduced bi-partisan legislation to correct the unintended exclusion of IOLTA accounts in the Dodd-Frank Act. The proposed notification requirements were drafted prior to the introduction of this bill; therefore, the impact of the bill was not taken into consideration when drafting the regulations. The pending Senate bill would make it unnecessary to issue notice regarding changes in coverage.

Premature notice would result in confusion regarding insured funds and could cause a potential for significant disruption of existing banking relationships. Attorneys and law firm depositors who receive the required notification could be unaware of the pending legislation and would be forced to act upon it. Further, if banks follow the notification requirement prior to congressional action, they may later have to rescind the notification if corrective legislation is passed. If Congress acts on the pending legislation, the movement of funds would have been unnecessary, but the negative impact on the banking community and IOLTA programs will have already occurred.

In most states, attorneys and law firms holding significant funds for clients in IOLTA accounts will have to choose between keeping the funds in the existing account or moving the funds to institutions presumed "too big to fail," undermining the stability of large IOLTA funds at numerous participating TAG institutions. Some attorneys, including those in mandatory jurisdictions such as Texas, may feel compelled to remove funds from IOLTA accounts completely and place them in fully insured accounts, which would be extremely detrimental to IOLTA programs.

As the poverty population continues to increase, there is a growing need for access to civil legal services for poor and low-income Texans. The Commission remains steadfast in its efforts to increase funding for legal aid; however, there are simply insufficient resources to provide for the rapidly increasing demand. In Texas, over 40 legal aid programs providing basic civil legal services are funded by the interest generated from IOLTA accounts. These legal aid programs are often the safety net for Texans seeking legal assistance for issues including obtaining protection from an abusive spouse, securing Veteran's benefits, and avoiding foreclosure or eviction. If IOLTA accounts do not receive full coverage, funding for these programs will be lost at a time when the need is the greatest.

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We respectfully request that the FDIC delay implementation of the proposed Regulation and the notification requirement for the IOLTA accounts until Congress passes the Senate bill or other corrective legislation. Further, we urge that the FDIC continue to support unlimited deposit insurance or other full guarantee coverage for IOLTA to avoid the possibility of disruption to the banking system and grave harm for IOLTA programs throughout the country.

Very truly yours,


Harry M. Reasoner
Chair

c: Members of the Commission

Ms. Betty Balli Torres
Executive Director
Texas Access to Justice Foundation
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