

# THE IOLTA FUND OF THE BAR OF NEW JERSEY

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October 15, 2010

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

**VIA EMAIL**

**RE: Comments on Proposed Deposit Insurance Regulations; Unlimited Coverage for Non interest-bearing Transaction Accounts (12 CFR Part 330 RIN 3064–AD37)**

Dear Mr. Feldman:

On behalf of the IOLTA Fund of the Bar of New Jersey I am writing to express serious concern about the impact on our IOLTA program of the proposed Regulation to implement the section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) that provides temporary unlimited FDIC coverage for non interest-bearing transaction accounts. The IOLTA program in New Jersey is formally named “*The Income from Non-Interest Bearing Trust Accounts (IOLTA) Fund*,” and provides funding for civil legal services, and projects that improve the administration of justice or educate individuals and groups about the law, especially those who have difficulty accessing the justice system.

IOLTA accounts, now expressly included in the current definition of accounts eligible for coverage by the TAG Program, would be excluded in the proposed Regulation to implement the Dodd-Frank Act. Legislation has already been introduced to correct this oversight. We are concerned that the proposed FDIC notification requirements could cause confusion among law firms before there is action on the bill. Firms may feel compelled to quickly change banking relationships, and in the process, damage the IOLTA program by moving to institutions which are perceived as safer.

We found that the enhanced ability of New Jersey’s small and community banks to compete for large firm trust account business was exactly the result the TAG Program hoped to achieve. Rather than fleeing to the “too big to fail” banks, firms were able to confidently keep existing local banking relationships. In some cases, law firms established *new* accounts at TAG Program participating banks. Moreover, the financial system crisis and the TAG Program brought new awareness of the FDIC’s

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insurance coverage of agented, fiduciary accounts to attorneys and law firms routinely holding client funds in trust, as well as to their bankers.

IOLTA programs and the legal community are seeking Congressional action on this matter before the end of the year. Delaying the “*Notice to Depositors Protected Under the TAGP But Not Under the Dodd-Frank Provision*” would avoid the inevitable negative impact on smaller banks at year end, confusion among attorneys, and further weakening of the public benefit afforded by the provision of civil legal aid to the poor. New Jersey’s legal services providers have already contracted substantially in reaction to IOLTA funding that is 80% lower than in 2007, before the financial system crisis and recession.

The FDIC has already determined that IOLTA accounts are functionally the same as non-interest bearing accounts. We believe that correcting legislation, which has bi-partisan support, will be passed at some point. Until that time, we request that the FDIC delay implementation of the proposed Regulation and notice requirements relative to IOLTA accounts.

Thank you for this opportunity to provide comments. For obvious reasons, I hope that you will be able to act expeditiously on this matter.

Sincerely,

Edwin J. McCreedy  
Chair, for the Board