



Nonprofit Publisher
of Consumer Reports

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

October 15, 2010

Sent by Email: Comments@FDIC.gov
Re: RIN 3064-AD37
Request for change in proposed rule with respect to IOLTA accounts

Dear Mr. Feldman,

Consumers Union, nonprofit publisher of *Consumer Reports*®, asks the FDIC to delay its proposed rule concerning the impact of the Dodd-Frank Wall Street and Consumer Protection Reform Act on the availability of unlimited deposit insurance coverage for non-interest-bearing transaction accounts. We understand that the treatment of IOLTA accounts will be changed by a portion of the recent law that becomes effective January 1, 2011. We nonetheless ask the FDIC to delay any notice to IOLTA account holders about the upcoming ineligibility for unlimited FDIC insurance. We make this request because we believe that the exclusion of IOLTA funds from unlimited FDIC insurance for non-interest bearing accounts was unintended, and is highly likely to be changed before the effective date for the relevant provision of the Dodd-Frank Act.

The proposed rule would require banks to notify IOLTA account depositors no later than December 31, 2010, that IOLTA funds are ineligible for unlimited FDIC coverage effective January 1, 2011. However, prior to the most recent recess, a bipartisan bill was introduced in the Senate that would add IOLTA accounts to the group of accounts that receive unlimited deposit insurance. Because depositors receive no interest on those accounts, and because the IOLTA process for funding legal services to the poor has an important public purpose, this change would be fully consistent with the purposes of the unlimited guarantee for non-interest bearing accounts. The Senate bill would ensure the continuity of unlimited FDIC coverage for IOLTA accounts as the TAG program expires and the Dodd-Frank provision takes effect. We are optimistic that this measure will be enacted this year.

The proposed rule would direct depository institutions to inform account holders about the soon-to-be uninsured status of IOLTA accounts when that status is likely to change through legislation, causing unnecessary confusion for IOLTA account depositors. Attorneys would be forced to decide whether to maintain and add to existing IOLTA accounts, or to move these client funds non-IOLTA accounts to ensure that they are fully FDIC-insured, even though that might violate state law requiring the use of IOLTA accounts for certain types of client funds. In addition, deposit insurance provides confidence in the banking system. A notice, even if later rescinded, of lack of such insurance beyond the \$250,000 deposit insurance cap could undermine that essential confidence.

The IOLTA program provides critical non-tax funding for civil legal services. Legal services are needed now more than ever, as the recession and its aftermath continue to burden low-income, elderly, and other vulnerable communities. IOLTA funding helps to prevent and to address the consequences of homelessness, domestic abuse, predatory lending and consumer fraud. The proposed rule may cause attorneys to withdraw their funds from IOLTA accounts unnecessarily while harming the legal services programs that depend on the interest from those accounts.

We recognize, of course, that if the exclusion is not corrected by Congress, a notice may need to be required to be given to account holders. However, we respectfully request that the FDIC delay the proposed notification requirements, in order to allow time for Congress to pass corrective legislation which will protect IOLTA funds for essential legal services.

This letter is submitted on behalf of Consumers Union. In my personal capacity, I serve on the California Legal Services Trust Fund Commission, which distributes IOLTA funds in California. I sought that form of public service because of the important role that I have personally seen legal services attorneys play for individual consumers and in communities in California and in many other parts of the U.S.

Very truly yours,

A handwritten signature in cursive script that reads "Gail Hillebrand". The signature is written in dark ink and is positioned below the closing of the letter.

Gail Hillebrand
Consumers Union