



Colorado Access to Justice Commission

October 15, 2010

Via U.S. Mail and e-mail to comments@fdic.gov

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

Re: FDIC Rule -- RIN 3064-AD37

Dear Mr. Feldman:

I am writing on behalf of the Colorado Access to Justice Commission (Colorado ATJC) to express our serious concern about a portion of the proposed rules regarding implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Specifically, we are concerned about the proposed rule that would require notice no later than December 31, 2010 to IOLTA account holders that, effective January 1, 2011, those accounts will no longer be eligible for unlimited FDIC coverage, as they have been for the past two years under the existing Transaction Account Guarantee (TAG) program.

We understand that the exclusion of IOLTA accounts in the Dodd-Frank Act was unintentional, and that just before the Senate recessed for the November elections, a bi-partisan bill was introduced to remedy this situation. If the proposed regulations take effect, and financial institutions begin to act on the notification directive before Congress has the opportunity to take corrective action on this matter, it could have a serious negative impact on Colorado's IOLTA program, which is a critical source of support for Colorado's civil legal aid delivery system.

The Colorado ATJC is an independent entity that was created in 2003 with the support of the Colorado Supreme Court, the Colorado Bar Association, and the Statewide Legal Services Group to develop, coordinate, and implement policy initiatives to expand access to and enhance the quality of justice in civil legal matters for persons who encounter barriers in gaining access to Colorado's civil justice system. Even before the recession, Colorado was facing a serious crisis in access to civil justice. The Colorado ATJC held hearings around the state in the fall of 2007, which documented this crisis and, in particular, the inadequacy of funding for civil legal services. Since that time, and as a direct result of the recession, the need for legal aid among the poor has increased, while IOLTA funding has fallen because of the historically low interest rates that are still in place today. The proposed notification requirement, if implemented and acted upon before Congress can act, could further jeopardize and disrupt IOLTA funding by forcing lawyers to consider moving their IOLTA accounts either to banks presumed "too big to fail" or to fully insured "non-interest bearing accounts," as currently defined in the Dodd-Frank Act.

This would be particularly unfortunate and confusing if financial institutions later had to rescind that notice after Congress acts on a fix.

We appreciate the FDIC's past support for the policy of full coverage for IOLTA accounts, evidenced by the inclusion of such accounts in the TAG program. To prevent potential harm and disruption to Colorado's IOLTA program, and to facilitate continued and uninterrupted full coverage of IOLTA accounts, we respectfully request that the FDIC delay the implementation of the proposed regulation and the notification requirements relative to IOLTA accounts until Congress has an opportunity to pass the pending Senate bill or other corrective legislation.

Please do not hesitate to contact me if you have any questions or would like any additional information. Thank you for your attention.

Sincerely,



Frederick J. Baumann, Chair
Colorado Access to Justice Commission