New Hampshire
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Equal Justice Under Law

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October 15, 2010

Via e-mail to: comments@fdic.gov and hard copy

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

RE: RIN 3064-AD37

Dear Mr. Feldman:

I am writing on behalf of the New Hampshire Bar Association and New Hampshire Bar Foundation to express the concerns of both organizations' Boards about a proposed rule. The Regulation to implement the provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) providing unlimited coverage for non-interest-bearing transaction accounts would have a serious negative impact on NH's Interest on Lawyers Trust Account (IOLTA) program.

IOLTA accounts now receive unlimited deposit insurance coverage under the existing Transaction Account Guarantee (IAG) program but would be excluded from that full coverage in the revised Regulation as of January 1, 2011. It appears that the exclusion of IOLTA Accounts in the Dodd-Frank Act was unintentional and that a bi-partisan bill has been introduced in the Senate to remedy this situation. Hopefully this bill will be acted upon by the end of the calendar year.

However, confusion and lasting harm to the IOLTA program could occur if this Regulation takes effect before Congressional action can occur. If financial institutions are required to individually notify holders of IOLTA accounts that their accounts will no longer be eligible for full coverage after year end, some attorneys may feel the need to move their IOLTA funds to a non-interest-bearing account or to a bank perceived as "too big to fail." Besides the loss of IOLTA revenue for important public purposes, this movement of funds to new accounts or new banks would be disruptive to clients and to banks. This would be particularly unfortunate if the financial institutions then had to rescind that notice after Congress acts on a fix. By then, the harm could be great to relationships with banks and lawyers who have long supported IOLTA and to IOLTA's continued ability to fund needed legal services for the poor.

To prevent these negative effects and facilitate uninterrupted full coverage for IOLTÂ accounts, we are urging the FDIC to delay finalization or implementation of this Regulation and the notification requirements until Congress has an opportunity to take action on this matter.

We also urge the FDIC to continue to support the policy of unlimited deposit insurance or other full coverage for IOLTA accounts for the reasons given such coverage under TAG, including that they are functionally similar to the types of non-interest-bearing transaction accounts receiving that coverage. IOLTA captures the aggregate net earnings on pooled client deposits that are held too briefly or are too small to produce net income for clients, to fund programs that provide legal services for the poor that help low-income persons threatened with homelessness, family violence and other critical legal needs. In fact, without the IOLTA rule, these would be non-interest-bearing accounts.

If we can provide more information or answer any questions please do not hesitate to contact us.

Sincerely,

Jeannine L. McCoy
Executive Director
NH Bar Association

Cc: Hon. James E. Duggan, Co-chair, NH Access to Justice Commission
Marilyn Billings McNamara, President, NH Bar Association
Philip S. Hollman, Chair, NH Bar Foundation