

## Memorandum

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TO: California Legal Services Trust Fund Commission

CC: Stephanie Choy	Deborah Ching
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FROM: James M. Rockett

RE: **Financial Institution Deposit Insurance**

In connection with the California State Bar Legal Services Trust Fund Commission's request to the Board of Governors of the State Bar of California (the "State Bar") that the State Bar petition the California State Supreme Court to adopt a Supreme Court Rule, and the State legislature be requested to modify Section 6213(k) of the Business and Professions Code, defining "financial institution" for purposes of eligibility to hold IOLTA funds, I have been asked to provide a short explanation of the applicability of "deposit insurance" to deposit taking financial institutions.

Currently there are only two sources of federal deposit insurance, Federal Deposit Insurance Corporation ("FDIC") and the National Credit Union Share Insurance Fund ("NCUSIF") insurance. FDIC insurance was established to be effective on January 1, 1934. NCUSIF insurance was created in 1970 shortly after the National Credit Union Association was established as an independent regulator of credit unions. Both FDIC and NCUSIF insurance are full faith and credit obligations of the U.S. government. Banks, whether federally or state chartered, are required to maintain FDIC insurance. Credit unions, whether federally or state chartered, are required to maintain NCUSIF insurance; however, credit unions are permitted to obtain private deposit insurance in excess of NCUSIF limits. While historically there have been other forms of deposit insurance (e.g., FSLIC or state thrift deposit funds), the only two federal deposit insurance funds at this time are FDIC and NCUSIF.

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It should be noted that brokerage accounts offered through securities broker-dealers are insured by Securities Investor Protection Corporation (“SIPIC”) insurance. SIPIC insurance does not cover deposit accounts and therefore is not deposit insurance.

The types of financial institutions that maintain deposit insurance through an agency of the federal government, that is the FDIC and NCUSIF, include:

- commercial banks, including national banks or national associations governed by the Office of the Comptroller of the Currency; state-chartered member banks (members of the Federal Reserve System) regulated by the relevant state regulator and the Board of Governors of the Federal Reserve System; and state-chartered non-member banks regulated by the state and FDIC;
- federal savings banks or savings and loan associations (occasionally called “thrifts”), regulated by the Office of Thrift Supervision;
- credit unions, including state chartered credit unions regulated by the relevant state regulator and the NCUA , or federal credit unions regulated by the NCUA; and
- industrial bank or industrial loan companies (occasionally called “thrift and loans”) regulated by the relevant state regulator and the FDIC (note that industrial banks are not permitted to maintain demand deposit accounts on which checks can be drawn).

I hope that this is helpful. Please let me know if there are any questions.