



IOTA Issue and Reform Legislation— Background

SUMMARY

Pursuant to the 2023 IOTA Amendment to the Rules Regulating the Florida Bar, lawyers must maintain their trust accounts in institutions that pay a particular rate. If the rule is not changed, its enforcement will lead to *financial disruption* for law firms in managing their trust accounts and seeking bank services. Banks, particularly many community banks, will either stop serving their legal customers' needs or be forced to strategize how this new cost will be paid. **The FBA seeks a fair and reasonable solution** that will enable (1) banks to continue serving their legal clients and (2) the Bar Foundation, which receives the interest, to support Florida's legal aid needs.

STATUS OF THE RULE

- In March of 2023, the Florida Supreme Court approved a new interest rate that Florida lawyers had to achieve in doing business with Florida banks. The new rate amounts to a **3000% increase** from the prior rate paid by banks.
- FBA immediately filed a Motion for Rehearing with the Court. The Florida Bar filed a motion in opposition to the Motion for Rehearing.
- The Court **granted the Motion for Rehearing** and required that the Florida Bar Foundation report on the implementation of the new rule. Following that report, the Court allowed any interested party to comment on the new rule.
- The Florida Bar Foundation has reported that they collected \$60M in two and a half months with a total of \$48M to disperse before 12/31/23.
- FBA submitted a response and combined exhibit of almost 30 banks and over 200 lawyers opposing the new rule. CFO Jimmy Patronis and the Florida Chamber of Commerce also submitted comments opposing the new rule. **The decision is now pending with the Court.**

THE LEGISLATION

- We believe we will succeed on the legal merits. However, Florida's banks are also requesting the Florida Legislature to help resolve this untenable situation.
- **Senator Erin Grall (R-Vero Beach)** and **Representative Robert Brackett (R-Vero Beach)** introduced **SB 1336** and **HB 1253**, respectively, legislation that would reform Florida's current IOTA program. The bills seek to provide a more appropriate index and interest rate rather than the 2023 rule, which inappropriately based the rate on the Prime Index.

- The proposal would place into statute **a fair formula for Florida's CFO to announce quarterly.** This formula is much more reasonable and financially appropriate, using a safe harbor rate of 68% of the upper bound of Fed Funds or a comparable rate option that would allow banks to treat these accounts the same as other similarly situated accounts.

OTHER BACKGROUND

- Prior to the rule change, the Foundation typically received \$30M each year in accrued interest on IOTAs.
- Consistent with all other interest-bearing accounts, the interest earned on IOTAs was impacted by historically low interest rates and has increased with the interest rate hikes over the past two years.
- On top of the market dynamics, the rule change resulted in an unsustainable windfall, putting IOTAs in a dramatically better interest-earning position than any other bank customer or account.

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***The Florida Bankers Association (FBA)** serves as the primary resource through which Florida financial service providers work in unity to influence the state and federal legal regulatory environment in which they serve their customers. Established in 1888, the FBA is one of Florida's oldest trade associations and has a membership of more than 250 financial institutions.*