



CHIEF FINANCIAL OFFICER  
JIMMY PATRONIS  
STATE OF FLORIDA

November 1, 2023

Honorable Justices  
Florida Supreme Court  
500 South Duval Street  
Tallahassee, FL 32399

RE: Amendments to Rules Regulating the Florida Bar--Miscellaneous SC22-1292

Honorable Justices of the Florida Supreme Court:

I am writing you in my capacity as Chief Financial Officer for the State of Florida, a member of the Florida Financial Services Commission, and former community bank board member. This letter is being provided in response to your Order dated August 4, 2023, which granted interested parties the opportunity to file comments on certain proposed amendments to the Rules Regulating the Florida Bar. Given the Department of Financial Services' role in overseeing the banking sector via our subordinate agency, the Office of Financial Regulation, my concerns are limited to the Interest on Trust Accounts (IOTA) changes specified in Rule 5-1.1(g)(5)(B), Rules Regulating the Florida Bar (IOTA Rule), excerpted below:

When the Wall Street Journal Prime Rate ("indexed rate") is between 325 and 499 basis points (3.25% and 4.99%), the minimum interest rate paid net of all fees and service charges ("yield") must be no less than 300 basis points (3.00%) below the indexed rate in effect on the first business day of each month. When the indexed rate is 500 basis points (5.00%) or above, the yield must be no less than 40% of the indexed rate in effect on the first business day of each month.

The IOTA Rule ostensibly seeks an admirable goal of increasing funding for the Florida Bar Foundation. However, based on IOTA account balances, as reported in the Florida Bar News in 2020, a rule change requiring interest to be paid based on a modified version of the Prime Rate in the current rate environment will result in a windfall for the Florida Bar Foundation in excess of \$200,000,000.<sup>1</sup>

Allowing the Florida Bar to levy a functional tax increase in excess of 2,000%<sup>2</sup> on Florida's IOTA-participating banks is a very different style of fiscal governance than that employed by the

<sup>1</sup> See generally Gary Blankenship, *Foundation Hopes to Enhance IOTA Rates* (Fla. Bar News Nov. 10, 2020).

<sup>2</sup> See Florida Bankers Association, *Motion for Rehearing, or in the Alternative, Motion to Accept Untimely Comments And Waiver Under Rule 1-12.1, Or Motion For Leave To Appear As Amicus on Rehearing* filed in *In RE: Amendments To Rules Regulating the Florida Bar 5-1.1* (SC22-1292 March 31, 2023) at p. 4.

Financial Services Commission or the Florida Legislature, both of which raise revenue in a graduated approach, if at all. Indeed, if the Legislature wished to adopt any tax or fee increase into law, that increase would need to be enshrined in a standalone bill, and both chambers would need to approve that bill by an extraordinary two-thirds vote.<sup>3</sup>

I am very proud of our state's reputation as responsible stewards of the public dollar. That reputation has not been established by accident—we achieved that reputation through years of deliberate and responsible fiscal management that has attracted significant private investment in our state. In my view, avoiding “shocks to the free-market system” is one of the key tenants of responsible fiscal management. While the Florida Bar has made attempts to characterize these rule amendments as a return to Free Market policy, that description fails to pass the eye test when the practical result of this rule change is to require banks to pay interest on high-transaction, high volatility trust accounts in the same manner they would on a savings account with more stringent rules withdrawal rules. In comparison to IOTA accounts, high yield savings accounts place significantly less liquidity demand on a bank's working capital.

Admittedly, banks are not required to offer IOTA account services, and based on the feedback we have received from the industry, I fear banks will either abandon this important market segment or pass along fees to their attorney-customers who require IOTA services. Ultimately, these increased costs will be passed along to Florida consumers.

If the Florida Bar is seeking revenue for its foundation, perhaps it should first look within and consider revising the “aspirational” monetary contribution of \$350, provided for in Rule 4-6.1, Rules Regulating the Florida Bar, which has not been revisited since 1993.

Thank you all for your service to this great state.

Sincerely,



Jimmy Patronis  
Chief Financial Officer

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<sup>3</sup> Art. VII, § 19, Fla. Const.