

**THE IOLTA FUND
OF THE BAR OF NEW JERSEY**

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November 11, 2008

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

Re: Comments on IOLTA and the Temporary Liquidity Guarantee Program

Dear Mr. Feldman:

I am writing as Chair of the IOLTA Fund of the Bar of New Jersey, a committee of the Supreme Court of New Jersey. On behalf of the entire Board of Trustees I urge the FDIC to include IOLTA accounts in the Temporary Liquidity Guaranty Program for unlimited deposit insurance. By now you have received comments from the National Association of IOLTA Programs and the American Bar Association. The IOLTA Fund of the Bar of New Jersey endorses those comments and adds the following remarks.

New Jersey Court Rule 1:28-A governing a lawyer's obligation to maintain an IOLTA account is called "*The Income from Non-Interest Bearing Trust Accounts (IOLTA) Fund.*" This nomenclature was expressly chosen to clarify that there is no expectation of interest on the part of a lawyer or a client when an IOLTA trust account is used to facilitate a transaction involving a trust deposit that is either short-term or nominal in nature. In our case, not only does an IOLTA account function as a non-interest bearing transaction account, we refer to it as such.

Our office has already fielded many law firm and bank inquiries about the application of the new Temporary Account Guarantee ("TAG") Program to IOLTA accounts. While the \$250,000 limit covers most transactions, even sole practitioners must briefly hold sums far in excess of \$250,000 to facilitate the transfer of real estate or business ownership, for example. Without coverage by the TAG Program, attorneys have only unsatisfactory choices to make: open new trust accounts at more banks or move to a bank perceived as "too big to fail." This places an unfair burden on a law firm maintaining an IOLTA at a local bank. Moreover, the attorney trust account is exactly the type of commercial, non-interest bearing

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payment-processing account the TLGP intends to stabilize.

I would also like to point out that the unlimited deposit insurance *already* covers lawyer trust account transactions evidenced by “negotiable cashier’s or officer’s checks”, two of the most common instruments in settling real estate matters (*12 C.F.R., Section 330.5,(4)(i)*). We believe the unlimited insurance cap should now extend to the *account balances* as well as to funds in transit.

In more 21 years of operation, the New Jersey IOLTA program has raised \$335 million for the important public purposes enumerated in the Court Rule. This income is the largest dedicated source of funding for civil legal aid programs in the state and annually benefits more than ninety non-profit organizations which provide help to tens of thousands of low-income, financially fragile residents. For those who need help and have nowhere else to turn, the results are real: economic stability, peace at home and the ability to move forward as productive members of society. Just as we face dramatically lower revenue resulting from low interest rates and reduced residential real estate activity, our grant recipients are asked to respond to a veritable flood of new demand from homeowners facing foreclosure and other problems affecting basic needs such as food, credit, jobs and access to health care. These are urgent issues that cannot be helped when the wait for a legal aid attorney grows from weeks to months.

Thank you for this opportunity to provide comments. For obvious reasons, I hope that you will be able to act expeditiously on this matter.

Sincerely,

/s/
Mary Lou Parker
Chair, for the Board