



M A S S A C H U S E T T S B A R A S S O C I A T I O N

PRESIDENT
Edward W. McIntyre
Clinton

November 12, 2008

PRESIDENT-ELECT
Valerie A. Yarashus
Boston

Robert Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

VICE PRESIDENT
Robert L. Holloway Jr.
Peabody

RE: Temporary Liquidity Guarantee Program

VICE PRESIDENT
Marsha V. Kazarosian
Haverhill

Dear Mr. Feldman:

TREASURER
Denise Squillante
Fall River

On behalf of the Massachusetts Bar Association, I write to strongly urge you to expand the Temporary Liquidity Guarantee Program (TLGP), which was recently promulgated on October 14, 2008. Specifically, I ask that you grant unlimited deposit insurance coverage for all Interest on Lawyer Trust Accounts (IOLTA).

SECRETARY
Douglas K. Sheff
Boston

The Interim Rule, adopted on October 23, 2008 does not provide full coverage for IOLTA accounts, which are similar to the non-interest bearing deposit transaction accounts presently covered under the TLGP's unlimited insurance safety net. Under the present regulatory scheme, a client's total funds in one financial institution, including the amount in an IOLTA account, exceeding \$250,000 are eligible for unlimited insurance *only* if they are moved to a covered *non-interest* bearing deposit account.

EXECUTIVE DIRECTOR
Marilyn J. Wellington
Boston

GENERAL COUNSEL
Martin W. Healy
Boston

Historically, the IOLTA program has been in existence for nearly 30 years and currently all 50 states have such programs. Thirty-seven states mandate IOLTA programs. The interest that these funds generate is essential to the administration of justice by providing revenue for basic civil legal services to the poor. IOLTA funds are generated by attorneys holding either a nominal amount of client funds or large amounts of client funds for brief periods of time and are effectively the same as the presently covered transaction accounts under TLGP, e.g. payroll accounts used by businesses. The funds held by an attorney are typically retainers, settlements, escrows and court filing fees. Further, when the IOLTA program was originally created, regulatory exceptions were made by the FDIC and the Federal Reserve Bank that allowed interest to be paid, for charitable

second largest funding source in the country for the provision of civil legal services to the poor.

Under the Interim Rule, attorneys holding significant client funds will be forced to decide whether to use their IOLTA accounts or to place their client's funds in a fully insured, *non-interest* bearing deposit transaction account. The TLGP Interim Rule may encourage some lawyers to move their accounts from IOLTA, thus devastating IOLTA's ability to provide much needed grants for civil legal aid. With the current economic crisis, more of our most vulnerable citizens are facing foreclosures and evictions and are in dire need of civil legal assistance.

It is my hope that you will expand the TLPG to provide full coverage for IOLTA accounts.

Sincerely,

A handwritten signature in black ink, reading "Edward W. McIntyre", with a long horizontal flourish extending to the right.

Edward W. McIntyre
President