OHIO STATE BAR ASSOCIATION

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

ATTN: Comments RIN #3064-AD37

Dear Mr. Feldman:

The purpose of this letter is to inform you of a gap in the Federal Deposit Insurance Corporation's (FDIC) new Temporary Liquidity Guarantee Program (TLGP), the result of which is to exclude coverage on Interest on Lawyer Trust Accounts (IOLTA) in a number of jurisdictions. We respectfully urge the FDIC to include IOLTA accounts within the unlimited coverage of the TLGP.

IOLTA accounts in Ohio have produced approximately $20 million each year for the past few years. Unfortunately, the low interest rates indicate a severe reduction in interest revenue this year and possibly the next. The funds that are received are disbursed to legal aid programs providing civil legal service to Ohio's poor and disadvantaged citizens. In some jurisdictions, the exclusion of these "interest bearing accounts," either nominal in amount or significant amounts held only long enough for a check to clear of for the attorney to disperse the funds, could result in transfers to non-interest bearing accounts to receive the protection announced under the proposed rule.

By way of background, IOLTA accounts act as clearing accounts for pooled client funds held in trust by a lawyer. Funds are placed in IOLTA accounts because they cannot earn interest for an individual client net of banking charges and administrative fees. Typical funds held by a lawyer on behalf of clients include court filing fees, real estate escrows, settlements and retainers.

Today, IOLTA programs have been established by the supreme courts or legislatures of all 50 states; 37 states *require* lawyers to deposit client funds that cannot earn net interest for the client in IOLTA accounts. While the need of legal services programs for IOLTA-generated income is great, the paramount responsibility of lawyers is their fiduciary duty to maintain security of client funds. Under the current TLGP Interim Rules, lawyers, in some jurisdictions, holding client funds for a short time exceeding $250,000 must consider whether to continue to use their IOLTA accounts or to place their client funds in a fully insured, non-interest bearing deposit transaction account. Establishing multiple accounts at various financial institutions for amounts over $250,000 is not a viable solution; the lawyer may not even know whether a client's cumulative funds deposited in a single institution exceed the $250,000 ceiling for insured funds, and it is not practical to separate a large deposit that is simply in the IOLTA account just long enough for the check to clear.

If lawyers move their IOLTA-eligible trust account funds to non-interest bearing accounts, the interest income received by IOLTA programs would be greatly reduced. IOLTA programs nationwide provided more than $212 million dollars in 2007 for the provision of civil legal services to the poor, making it the second largest source of such funding in the country. Therefore, it is critical that the FDIC extend the unlimited insurance coverage of the TLGP to IOLTA accounts.

Once again, I respectfully request that the FDIC include IOLTA accounts in the full insurance available under the new TLGP.

Sincerely,

Gary J. Leppla
President