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Michigan State Bar Foundation  
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November 13, 2008

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

Re: RIN # 3064-AD37

Dear Mr. Feldman,

We are writing this letter as Executive Directors of the State Bar of Michigan and the Michigan State Bar Foundation to urge the FDIC to include Interest on Lawyers Trusts Accounts (IOLTA) among those accounts receiving unlimited insurance under the Temporary Liquidity Guarantee Program (TLGP). The State Bar, with over 40,000 lawyer members, and the Foundation, which awards IOLTA grants annually to nonprofit civil legal aid programs, have a long history with Michigan's IOLTA program and with efforts to support access to justice for the poor.

Absent full coverage for IOLTA accounts, many attorneys may want to move IOLTA deposits to non-interest-bearing accounts for which the TLGP now extends full coverage regardless of dollar amount. If that were to occur, it would drastically decrease IOLTA revenues which are used to support civil legal aid for those in need. IOLTA grants assist impoverished people who need legal help in areas such as foreclosures, predatory lending, access to health care, child support, unscrupulous contractors, consumer problems, and domestic violence. In Michigan, more than \$2 million in IOLTA grants in 2007 helped nonprofit agencies close more than 50,000 cases, facilitate more than 35,000 hours of pro bono service from volunteer lawyers and offer assistance such as legal information to help families avoid or lessen other legal problems. Even with IOLTA funding, current resources are inadequate. A 2005 State Bar study showed that for every four people served by nonprofit legal aid agencies in our state, three others are turned away due to lack of resources.

Beyond the important public purpose of supporting access to justice, IOLTA should be included in the TLGP's unlimited insurance coverage because IOLTA accounts, while interest bearing, operate the same as the non-interest-bearing transaction accounts intended for full coverage. Lawyers pool client funds in IOLTA accounts that are either nominal in amount or held too briefly to earn net interest for the client. Typical funds held by a lawyer on behalf of clients include court filing fees, settlements and retainers. Neither clients nor lawyers can receive interest from IOLTA accounts. Moreover, IOLTA accounts only earn interest at all because federal regulators granted an exception to rules that would otherwise prohibit the payment of interest on demand accounts held by corporate entities, like law firms, because the earnings go to a nonprofit organization for charitable purposes. Before IOLTA, lawyers pooled client deposits in non-interest-bearing accounts.


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Another unintended consequence of excluding IOLTA from full coverage would occur if lawyers moved their interest-bearing IOLTA accounts from local banks to the "perceived" greater safety of larger institutions. This also would operate against the TLGP's goal of stabilizing the financial system. Nor is it a viable solution when IOLTA accounts contain client funds that exceed the current \$250,000 coverage limit for short periods of time if lawyers attempted to establish multiple accounts at various financial institutions for amounts over \$250,000 because it is not practical to split a large deposit that is in the IOLTA account just long enough for the check to clear and disbursement to be made.


We ask that the FDIC include IOLTA accounts among those receiving full FDIC insurance coverage regardless of dollar amount under the TLGP to avoid the difficulties we have described above for lawyers and the harm low-income families in Michigan would suffer if IOLTA-funded legal help is no longer available to them.

Thank you.

Sincerely,



Janet K. Welch  
Executive Director  
State Bar of Michigan



Linda K. Rexer  
Executive Director  
Michigan State Bar Foundation