

JOHN CONYERS, JR., Michigan  
CHAIRMAN

HOWARD L. BERMAN, California  
RICK BOUCHER, Virginia  
JERROLD NADLER, New York  
ROBERT C. "BOBBY" SCOTT, Virginia  
MELVIN L. WATT, North Carolina  
ZOE LOFGREN, California  
SHEILA JACKSON LEE, Texas  
MAXINE WATERS, California  
WILLIAM D. DELAHUNT, Massachusetts  
ROBERT WEXLER, Florida  
LINDA T. SÁNCHEZ, California  
STEVE COHEN, Tennessee  
HENRY C. "HANK" JOHNSON, JR., Georgia  
BETTY SUTTON, Ohio  
LUIS V. GUTIERREZ, Illinois  
BRAD SHERMAN, California  
TAMMY BALDWIN, Wisconsin  
ANTHONY D. WEINER, New York  
ADAM B. SCHIFF, California  
ARTUR DAVIS, Alabama  
DEBBIE WASSERMAN SCHULTZ, Florida  
KEITH ELLISON, Minnesota

ONE HUNDRED TENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

LAMAR S. SMITH, Texas  
RANKING MINORITY MEMBER

F. JAMES SENSENBRENNER, JR., Wisconsin  
HOWARD COBLE, North Carolina  
ELTON GALLEGLY, California  
BOB GOODLATTE, Virginia  
STEVE CHABOT, Ohio  
DANIEL E. LUNGREN, California  
CHRIS CANNON, Utah  
RIC KELLER, Florida  
DARRELL E. ISSA, California  
MIKE PENCE, Indiana  
J. RANDY FORBES, Virginia  
STEVE KING, Iowa  
TOM FEENEY, Florida  
TRENT FRANKS, Arizona  
LOUIE GOHMERT, Texas  
JIM JORDAN, Ohio

November 13, 2008

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:

We write to comment on the October 23 Interim Rule establishing the Temporary Liquidity Guarantee Program (TLGP). Specifically, we urge you to ensure that the TLGP, through which the FDIC will fully guarantee certain non-interest bearing transaction accounts, also covers Interest on Lawyer Trust Accounts (IOLTAs).

Among its most critical responsibilities, the Judiciary Committee oversees matters involving the administration of justice and access to the legal system, such as the Legal Services Corporation. While IOLTA programs are created by state law or supreme court rule and not federal legislation, we strongly support the unique and important role they serve in providing resources to allow the poor to resolve or prevent legal problems. IOLTA programs exist in all 50 states and the District of Columbia. In fact, 37 states require lawyers to deposit client funds that cannot earn net interest for the client in IOLTAs. Interest generated from IOLTAs is paid to IOLTA programs that issue grants for the provision of civil legal aid to the poor, the administration of justice, and law-related education – programs that are vital to our democratic system's guarantee of equal access to justice for all.

IOLTAs act as clearing accounts for pooled client funds. From the perspectives of both the account holder and the beneficial owner of the funds, IOLTAs effectively are the same as insured accounts. As a general matter, client funds pooled in an IOLTA are either nominal, or a significant amount held only long enough for a check to clear or for the attorney to disperse the funds. Funds placed in an IOLTA might include court filing fees, real estate escrows, settlements

and retainers. The real estate escrows are both most at risk without full coverage, and of the greatest importance for IOLTA programs because these short-term large funds generate a significant amount of IOLTA revenue.


These IOLTAs generate interest to the third-party non-profit IOLTA programs under an exception granted by the Federal Reserve and the FDIC. However, because IOLTAs do generate interest, the TLGP Interim Rule as issued on October 23 would not extend unlimited FDIC insurance to these accounts. Lawyers holding client funds in excess of \$250,000 must now consider whether to move their client funds from IOLTAs to a fully insured, non-interest bearing deposit transaction account. Under another option, lawyers in the 37 mandatory IOLTA states might move the substantial sums in their trust accounts from community banks to larger institutions viewed as less likely to fail. That option would be contrary to the FDIC's goal in creating the TLGP, which was to ensure stability in the banking system.

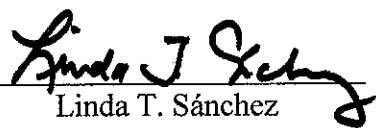
If lawyers move their IOLTA-eligible funds to non-interest bearing accounts, the interest income received by IOLTA programs in all of our states would be greatly reduced. IOLTA programs nationwide provided more than \$212 million dollars in 2007 for the provision of civil legal services to the poor, making it the second largest source of such funding in the country. Without IOLTA funds, many low-income families who are being hit particularly hard by the current economic situation will not be able to receive help with legal problems such as foreclosures, consumer problems, domestic violence, child support and other critical needs. We believe that the public benefits generated by IOLTAs, and the fact that the interest they pay is dedicated only to third-party non-profit IOLTA programs, rather than to attorney account holders or their clients, merit inclusion of IOLTAs in the unlimited insurance in the final rule.

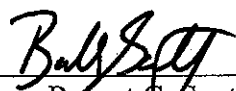
For reasons consistent with the FDIC's goals and for the public good, it is critical that the FDIC extend the unlimited insurance coverage of the TLGP to IOLTAs. We request that the FDIC include IOLTAs in the full insurance available under the new TLGP.

We thank you for your consideration.

Sincerely,

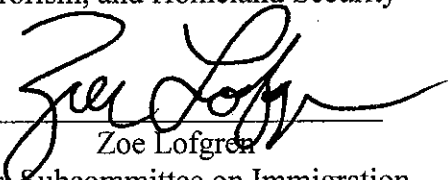
  
John Conyers, Jr.  
Chairman, House Judiciary Committee

  
Linda T. Sanchez  
Chair, Subcommittee on Commercial and  
Administrative Law



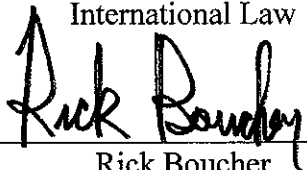
Robert C. Scott

Chairman, Subcommittee on Crime,  
Terrorism, and Homeland Security



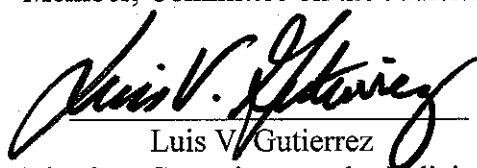
Zoe Lofgren

Chair, Subcommittee on Immigration,  
Citizenship, Refugees, Border Security, and  
International Law



Rick Boucher

Member, Committee on the Judiciary



Luis V. Gutierrez

Member, Committee on the Judiciary



William D. Delahunt

Member, Committee on the Judiciary



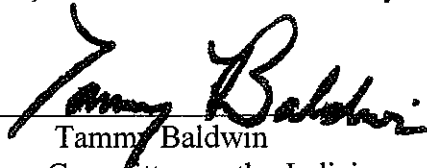
Debbie Wasserman Schultz

Member, Committee on the Judiciary



Betty Sutton

Member, Committee on the Judiciary



Tamm Baldwin

Member, Committee on the Judiciary



Jerrold Nadler

Chairman, Subcommittee on the  
Constitution, Civil Rights, and Civil  
Liberties



Howard L. Berman

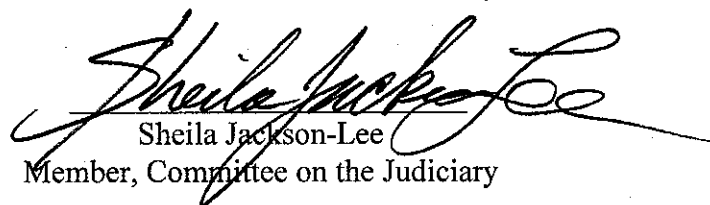
Chairman

Subcommittee on Courts, the Internet, and  
Intellectual Property



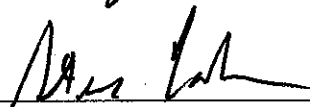
Melvin L. Watt

Member, Committee on the Judiciary



Sheila Jackson-Lee

Member, Committee on the Judiciary



Steve Cohen

Member, Committee on the Judiciary



Brad Sherman

Member, Committee on the Judiciary



Keith M. Ellison

Member, Committee on the Judiciary



Henry C. Johnson, Jr.

Member, Committee on the Judiciary