CONNECTICUT BANKERS ASSOCIATION

Gerald M. Noonan
President & CEO

November 13, 2008

VIA EMAIL (Comments@FDIC.gov)

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20427

Attention: Comments/Interim Rule on Temporary Liquidity Guarantee Program
RIN #3064-AD37

Dear Mr. Feldman:

The Connecticut Bankers Association is an industry association representing all of the banks and thrifts in Connecticut. Collectively, these banks serve the financial needs of millions of consumers and businesses in Connecticut.

We are writing today to urge the FDIC to amend its Interim Rule to treat IOLTA accounts as noninterest bearing transaction accounts for purposes of the FDIC's Temporary Liquidity Guarantee Program. We do so for the following reasons.

- Like many other states, Connecticut attorneys are compelled by their rules of professional conduct to deposit certain client funds in IOLTA accounts. Deposits into these accounts often include real estate closing proceeds, settlement awards and other amounts that are held for a short period of time for the benefit of a client or a third party. Funds attributable to individual clients or third parties often exceed $250,000.

- Because of the short-term transactional nature of these accounts, the appropriate vehicle for the funds is a deposit account with check writing capability. Traditionally, lawyers with these types of transactional needs had been required to use noninterest bearing demand deposit accounts (just like other commercial customers). However, with changes in banking law, and thoughtful interpretations by the FDIC and Fed, many states, including Connecticut, adopted IOLTA programs to take advantage of opportunities to pay interest on NOW accounts that hold client funds.

- Today, lawyers across Connecticut use IOLTA NOW Accounts for transactional purposes, just as they had previously used noninterest bearing demand deposit accounts. And banks across Connecticut pay millions of dollars in interest proceeds to the Connecticut Bar Foundation to fund a number of charitable causes, including Legal Aid. In this regard, we note that although interest is paid to the Bar Foundation, it does not accrue for the benefit of the owner of the deposited funds (i.e., the client).

- With this background in mind, we respectfully ask that the FDIC change its definition of "noninterest bearing transaction account" to include, rather than exclude, NOW accounts containing IOLTA funds.

- When compared to the accounts that are currently covered by the TLG Program guarantee, those IOLTA NOW accounts have many of the same attributes. They are *transactional* in nature (similar to the business *payroll* accounts currently covered by the definition). They do not *bear interest* in the traditional sense (the owner of the deposited funds, the client, never receives the interest).

- Amending the definition would also be consistent with the stated purpose of the TLG Program; namely, to preserve confidence in the banking system. Consistent with this point, Chairman Bair has commented that: *"Many smaller, healthy banks have been losing those accounts [i.e., noninterest bearing transaction accounts] to their much larger competitors because of uncertainties in the financial system."*[1]

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[1] Statement by Chairman Bair on October 14, 2008 (in a joint press conference with U.S. Treasury, Federal Reserve and FDIC).

- That point is exactly what we are illustrating here. Many healthy community banks in our state are fearful of losing significant deposit balances because attorneys are looking to move IOLTA balances to larger banks that are thought to be “too big to fail” (or may be able to offer sophisticated “sweep” products that qualify for the TLG coverage). Attorneys in our state need to know that balances in these NOW accounts are fully guaranteed.

- In its Interim Rule, the FDIC asks for comments on whether coverage should be extended to include NOW accounts held by philanthropic or charitable organizations. We support that suggestion as it relates to IOLTA funds in NOW accounts. As you know, the interest on those funds is being used by a nonprofit organization for civic and charitable causes. As a matter of public policy, we encourage an extension of the definition for these purposes.

- Please note that a bank's decision on whether or not to participate in the Transaction Account Guarantee Program may very well be heavily influenced by the FDIC's final decision on the coverage of IOLTA accounts. **Therefore, we respectfully ask that the FDIC announce its decision on this point as soon as is reasonably possible.** This will allow banks the necessary time to digest the competitive implications of the FDIC's decision before the opt out deadline.

We appreciate the hard work and creativity of the FDIC in establishing the TLG Program. We also appreciate the opportunity to comment and hope that you will appreciate the importance of this issue for the Connecticut banking industry. If you should have any questions or comments, please do not hesitate to contact me directly.

Sincerely,

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