



## The Legal Aid Society

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Sent Via E-Mail and First Class Mail

November 13, 2008

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

Re: Proposed 12 CFR Part 370 – Federal Deposit Insurance Corporation Temporary Liquidity Guarantee Program

Dear Mr. Feldman:

We at The Legal Aid Society in New York City (the Society) submit these comments to recommend a change in the interim rule announced on October 23, 2008 to govern the recently created Temporary Liquidity Guarantee Program (TLGP). We understand that this program, as announced, does not cover Interest on Lawyer Trust Accounts (IOLTA) also known in New York as Interest on Lawyer Accounts (IOLA). We respectfully request an immediate change in order to expand coverage to include IOLTA/IOLA as non-interest bearing transaction accounts for the purposes of the TLGP.

As these comments are being written, extraordinary economic events are unfolding at the Federal, State, and City levels throughout the United States that will have a profound impact in our low-income client communities during the coming year. In hard economic times, those with the least suffer the most. The failing local, state, and national economy will inevitably have the greatest impact on the most vulnerable and poorest individuals and families in New York City as well as throughout these United States, and the Society anticipates a dramatic increase in demand for the Society's services over the coming year as a result especially in those areas of foreclosure and eviction prevention, employment, disability and health law related services.

Interest generated from IOLTA/IOLA accounts is paid to IOLTA/IOLA programs that issue grants for the provision of civil legal aid to the poor, the administration of justice and legal education. If the TLGP is not extended to include IOLTA/IOLA accounts, the TLGP has the potential to greatly reduce the interest income received by IOLTA/IOLA because attorney account holders concerned with ensuring the protection of their clients' funds may divert funds to accounts protected by TLGP. Consequently, millions of dollars for the provision of legal services to the poor and most vulnerable individuals including senior citizens, chronically ill or

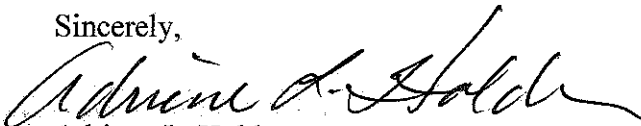
disabled children and adults, survivors of domestic violence, immigrants, low-wage or unemployed workers, persons living with HIV/AIDS, and homeless or imminently homeless children and adults may be lost. Now is not the time to force lawyers to abandon a program that provides much needed revenue for legal aid for the poor.

The FDIC has carved out an exception in the past that applied to IOLTA/IOLA. In recognition of the unique nature of IOLTA/IOLA and its charitable purposes, an exception to Regulation D (prohibiting the payment of interest on demand accounts) was granted by the Federal Reserve. The FDIC was instrumental for states establishing IOLTA/IOLA programs. But for that exception allowing interest, IOLTA/IOLA accounts are materially similar to the non-interest bearing transaction accounts identified for the increased insurance under TLGP. As a result, the FDIC should explicitly recognize IOLTA/IOLA accounts as eligible for TLGP protection, or an exception should once again be made for IOLTA/IOLA so that TLGP coverage is extended to it.

We urge the FDIC to construe IOLTA/IOLA as non-interest bearing transaction accounts under TLGP. Alternatively, we urge the FDIC to grant an exception in the TLGP rules explicitly stating that funds in IOLTA/IOLA accounts have unlimited deposit insurance coverage regardless of dollar amounts.

Thank you for your attention to these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Adriene L. Holder". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Adriene L. Holder  
Attorney-in-Charge  
The Legal Aid Society  
Civil Practice