From: Bruce Iwasaki [mailto:bruce.iwasaki@limruger.com]
Sent: Thursday, November 13, 2008 2:21 PM
To: Comments
Subject: Comments on TLGP Interim Rule re expanding coverage to IOLTA accounts

To: Federal Deposit Insurance Corporation
Re: Interim Rule on Temporary Liquidity Guarantee Program

I urge the FDIC to expand the Temporary Liquidity Guarantee Program [TLGP] to provide full insurance coverage to Interest on Lawyer Trust Accounts [IOLTA] regardless of the account size.

I am a lawyer in private practice in Los Angeles, California. I have served on the California IOLTA program board, and have served on the board of a legal services organization that receives IOLTA funds.

I am very familiar with what has been referred to as the "justice gap," the disparity in access to legal representation between the poor and the broader population. IOLTA programs in every state were created to provide resources to chronically underfunded lawyers for the poor as an effort to mitigate the justice gap. In a majority of states, including California, lawyers are required to deposit client funds in IOLTA accounts that do not earn interest for the client. Legal aid lawyers have been active in counseling low income clients to avoid predatory lenders and in seeking redress against fraudulent practices.

IOLTA accounts function similarly to other non-interest bearing accounts. They are clearing accounts for pooled client funds. They typically remain in the accounts for short periods. The amount in a client trust account may vary considerably from time to time, as, for instance, when a settlement check is deposited prior to being distributed among parties. Pooled client trust accounts never generated interest for the clients, even before IOLTA programs were established. Thus, IOLTA accounts fall within the purposes of the TLGP.

Expanding the Temporary Liquidity Guarantee Program to IOLTA accounts avoids a serious ethical problem for the nation's lawyers. Most state laws require lawyers to deposit funds in IOLTA accounts. But in these financially turbulent times lawyers owe a paramount fiduciary duty to protect their clients' funds, and may, because of the insurance limitations, move client funds from trust accounts covered by IOLTA rules. If this occurs, the result will be fewer dollars to fund lawyers trying to help the most vulnerable of our citizens.

I urge the FDIC to avoid this wholly unintended consequence. Please expand the TLGP to fully cover all IOLTA accounts.

Thank you for considering my views.

Very truly yours,

Bruce G. Iwasaki

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