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To: Comments
Subject: FW: RIN # 3064-AD37

The following are comments being submitted regarding RIN # 3064-AD37. The undersigned supports expansion of TLPG to provide full coverage for IOLTA accounts, regardless of dollar amount.

Reasons in support of this position are as follows:

IOLTA accounts are effectively the same as the covered transaction accounts. IOLTA accounts act as clearing accounts for pooled client funds. Funds are placed in IOLTA accounts because they cannot earn interest for an individual client net of banking charges and administrative fees. Client funds pooled in an IOLTA account are either nominal in amount or significant amounts held only long enough for a check to clear or for the attorney to disperse the funds. Typical funds held by a lawyer on behalf of clients include court filing fees, real estate escrows, settlements and retainers.

FDIC and Federal Reserve exceptions permit banks to pay interest on these otherwise similar transaction accounts. Almost 30 years ago, the FDIC and Federal Reserve granted an exception to banking regulations that prohibited the payment of interest on demand accounts. This exception was instrumental for states establishing IOLTA programs because it allowed interest to be paid for charitable purposes to a third party, the IOLTA program. Today, IOLTA programs exist in all 50 states; 37 states require lawyers to deposit client funds that cannot earn net interest for the client in IOLTA accounts. Interest generated from IOLTA accounts 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 – which are vital to our democratic system's guarantee of equal access to justice for all.

TLGP coverage is vital for IOLTA accounts, which may hold funds for a client that could exceed the \$250,000 coverage limit. IOLTA accounts may hold large amounts of client funds for short periods of time, such as real estate transactions and large settlements for multiple clients prior to distribution. Establishing multiple accounts at various financial institutions for amounts over \$250,000 for client is not a viable solution: attorneys cannot know whether a client may later deposit additional funds of its own at a particular bank, and it is not practical to separate a large deposit that would be in the IOLTA account just long enough for the check to clear.

This is not the time to force lawyers to abandon a program that provides much needed revenue for legal aid for the poor, especially now with increases in foreclosures and evictions. While the need for IOLTA-generated income is great, a lawyer's paramount responsibility is her fiduciary duty to maintain security of client funds. Lawyers holding significant client funds must consider whether to continue to use their IOLTA accounts, as required by Supreme Court rule or legislation in many states, or to place their client

funds in a fully insured, non-interest bearing deposit transaction account. The current TLGP Interim Rule might encourage lawyers to move their trust accounts; this would greatly reduce the interest income received by IOLTA programs, which are the second largest source of funding for civil legal aid for the poor.

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