



November 11, 2008

Robert E. Feldman, Executive Secretary

Attn: Comments

Federal Deposit Insurance Corporation

550 17th Street, NW

Washington, DC 20429

Re: Comments on the Interim Rule regarding
the Temporary Liquidity Program

Dear Mr. Feldman:

The State Bar of Georgia requests that the FDIC revise the published Interim Rule regarding the Transaction Account Guarantee Program of the Temporary Liquidity Program by amending the proposed regulations to include Interest on Lawyer Trust Accounts (IOLTA) in the definition of covered accounts. We believe there are at least three substantial reasons for this inclusion. First, the failure to include these accounts poses a systemic threat to both the residential and commercial real estate markets in Georgia; second, these accounts are the functional equivalent of noninterest-bearing transaction accounts in the real estate market; and finally, to the extent that the Interim Rule diminishes IOLTA deposits, its direct effect will be to cripple the flow of funds from the Georgia Bar Foundation to the Georgia entities that provide direct legal services to the neediest of our citizens at a time when the nation's economic problems have tremendously expanded these citizens' critical legal services needs.

Failure to Include IOLTA Account Would Pose a Systemic Threat to the Real Estate Market. The Supreme Court of Georgia has held that closing real estate is the practice of law. Therefore in Georgia almost all real estate closings,

both commercial and residential, are handled by lawyers. The Georgia Rules of Professional Conduct require that funds to be distributed at a real estate closing be placed either in an interest-bearing account with the interest accruing to the benefit of the client or in an IOLTA account. The rules do not permit these funds to be placed in a noninterest-bearing account. Therefore, in Georgia, almost all funds transferred in real estate closing are placed in accounts which, under the Interim Rules, are subject to the \$250,000.00 per person insurance limitation.

Deposits in residential real estate transactions often involve amounts in excess of the deposit insurance coverage. In commercial closings, the amount may be far in excess of the deposit insurance coverage. With the recent failure of Alpha Bank & Trust in Alpharetta, Georgia and the various press reports suggesting the risk of further bank failures in our state, the inadequacy of deposit insurance coverage in IOLTA accounts poses significant concerns for both lenders and the legal community. If any Georgia bank which had a substantial amount of uninsured real estate closing funds deposited in IOLTA accounts were to fail, it would exacerbate the already depressed conditions in Georgia's residential and commercial real estate markets. This systemic risk could easily be avoided by including IOLTA accounts among the accounts fully insured under the Transaction Account Guarantee Program.

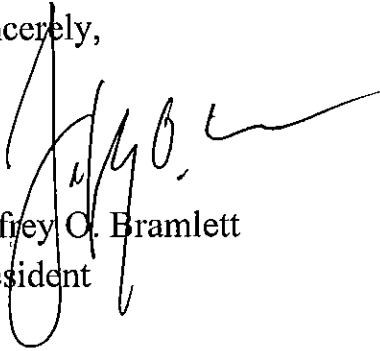
IOLTA Accounts Are the Functional Equivalent of Noninterest-bearing Transaction Accounts. FDIC describes noninterest-bearing transaction accounts as accounts "frequently used by an insured depository institution's business customers." Similarly, IOLTA accounts are accounts which are used by attorneys in the normal transaction of their business. The only difference is that IOLTA accounts earn interest; however, this interest does not accrue to the benefit of either the lawyer or the client, but in Georgia such interest is paid by the financial institution to the Georgia Bar Foundation. The Foundation uses these funds to provide grants to entities which provide civil legal services to the poor and disadvantaged. From the lawyer and client's point of view, the account is noninterest-bearing. The amount of the deposit does not vary from the time of deposit to withdrawal. When the attorney conducts the client's business, the account is used in the same way as a noninterest-bearing transactional account and should be treated the same way for deposit insurance purposes.

If IOLTA Accounts Are Jeopardized, the Georgia Bar Foundation May Be Forced to Curtail Civil Legal Services to the Poor. In Georgia, the interest earned on IOLTA accounts accrues to the benefit of the Georgia Bar Foundation. The Georgia Bar Foundation is a stand alone 501(c)(3) entity established by the Georgia Supreme Court to provide grants to organizations which provide civil legal services to the poor and provide law-related education to the public. Georgia Bar Foundation grants constitute a major funding source for the delivery of direct legal services to Georgia's low income population. The current economic crisis is marked by a staggering increase in evictions, foreclosures, and other personal catastrophes for low income Georgians and a rapid expansion of their needs for critical legal services. If the Interim Rule fails to take into account the impact on IOLTA-based funding for these legal services, FDIC will invite civil unrest that is inevitable when low income citizens' access to justice and our Rule of Law are undermined.

For each of these reasons we urge the FDIC to include IOLTA accounts in the Transaction Account Guarantee Program.

We thank you for your consideration and would appreciate the opportunity to address any concerns you may have about this request.

Sincerely,



Jeffrey O. Bramlett
President

cc: Robert McCormack
Len Horton