

October 8, 2008

Mary Hoeft Smith, Trust Account Program Administrator
Supreme Court of Wisconsin, Office of Lawyer Regulation
110 East Main Street, Suite 315
Madison, WI 53703-3383

Re: Insurance Coverage for Interest on Lawyers Trust Accounts (IOLTA) Accounts.

Dear Ms. Hoeft Smith:

You have asked us about the insurance coverage by the National Credit Union Share Insurance Fund (NCUSIF) for IOLTA accounts in federal and state-chartered credit unions and those designated as "low-income." As discussed below, client funds in an IOLTA account are insured for those clients who are members of the credit union or, if a credit union is designated as low-income, all funds are insured regardless of the client's membership status.

Under IOLTA programs, lawyers and law firms establish accounts to hold their clients' funds in trust to pay costs related to legal services. Participation in IOLTA programs by lawyers and law firms is required in some states and is optional in other states. A lawyer or law firm opens an IOLTA account and, as an agent, deposits its clients' funds in the account and holds them there in trust until they are needed. The interest earned from the money in the IOLTA accounts is aggregated and paid generally to another state agency or private nonprofit organization, such as a state bar association, to subsidize legal aid services or for other charitable purposes.

The clients, not their lawyers or law firms, own the funds in an IOLTA account. The lawyers or law firms are merely the agents holding the funds in trust for their clients. While NCUSIF insurance coverage might cover clients as the beneficial owners of the funds, 12 C.F.R. §745.3(a)(2); see, e.g., OGC Op. 96-0841 (Sept. 17, 1996), OGC Op. 94-0119 (Feb. 9, 1994) (available on NCUA's website at www.ncua.gov), the NCUSIF insures only member accounts. Therefore, client funds in an IOLTA account are insured by the NCUSIF only for those clients who are members of the credit union. 12 C.F.R. §§ 745.0, 745.1(b). In the event of a credit union's liquidation, the amount of each client's insured funds in IOLTA accounts is added together with any other individual account of the client. 12 C.F.R. § 745.3. Insurance coverage is the same whether the credit union is a federal or state-chartered credit union. 12 C.F.R. Part 745.

You have also asked about NCUSIF insurance coverage for IOLTA accounts at federal and state-chartered credit unions designated as low-income. Both federal credit unions and state-chartered credit unions designated as low-income can accept nonmember funds. 12 U.S.C. §1757(6); 12 C.F.R. §701.34; see, e.g., OGC Op. 96-0841. A state-

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chartered credit union can also be designated as low-income. 12 C.F.R. §741.204(b). Nonmembers at low-income credit unions are considered members for purposes of NCUSIF coverage. 12 C.F.R. §745.1(b). Therefore, a nonmember client's funds in an IOLTA account at a low-income credit union are entitled to NCUSIF coverage. 12 C.F.R. §745.1(b).

Sincerely,

/S/

Sheila A. Albin
Associate General Counsel

GC/RMM:bhs
08-0840