

OPTIONS FOR Trust Account Management

pursuant to SCR 20:1.15,
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The 2016 re-creation of SCR 20:1.15, the Wisconsin Supreme Court's trust account rule, provides lawyers and law firms with several options for managing trust property and trust accounts. In determining which option will best meet the needs of a particular law practice, a lawyer or law firm should first identify the types of transactions that are currently being used and those that the lawyer or law firm would like to use in the future.

This brochure provides a comparison of the four banking options currently available to Wisconsin lawyers. Each option includes a list of the transactions that are permitted and those that are prohibited, along with the Supreme Court Rules that are applicable to the option.



STATE BAR OF WISCONSIN
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OPTION 1

Traditional IOLTA

+ Required Business Account

If you do not accept credit cards and do not anticipate doing so, the traditional IOLTA account along with the required business account may meet your needs.

Permitted Transactions Traditional IOLTA

- Bank deposits, SCR 20:1.15(f)(3)
- Remote deposits, SCR 20:1.15(f)(3)a
- Checks, SCR 20:1.15(f)(3)
- Wire transfers, SCR 20:1.15(f)(2)b.2

Prohibited Transactions Traditional IOLTA

- Transfers by voice or ATM, SCR 20:1.15(a)(2)
- Cash and ATM withdrawals, SCR 20:1.15(f)(2)a
- Telephone transfers, SCR 20:1.15(f)(2)b.
- Electronic transfers by 3rd parties, SCR 20:1.15(f)(2)c
- Electronic transactions, including credit, debit, prepaid and other payment cards, and ACH transactions, SCR 20:1.15(f)(3)

Security Requirements Traditional IOLTA

- Commercially reasonable security measures, SCR 20:1.15(f)(1)
- Signatory authority limited to Wisconsin lawyers or nonlawyer assistants under SCR 20:5.3 supervision, SCR 20:1.15(f)(1)

OPTION 2

E-Banking IOLTA

+ Traditional IOLTA + Required Business Account

If you want to safeguard funds by using a pass-through account for electronic transactions or if you currently have a Credit Card Trust Account, the E-Banking Trust Account (EBTA) along with a traditional IOLTA and business account may meet your needs.

Permitted Transactions E-Banking IOLTA

- All permitted transactions under Option 1
- Credit, debit, prepaid and other payment cards subject to SCR 20:1.15(f)(3)b. requirements
- Electronic deposits and disbursements subject to SCR 20:1.15(f)(3)b. requirements

Prohibited Transactions E-Banking IOLTA

- Transfers by voice or ATM, SCR 20:1.15(a)(2)
- Cash and ATM withdrawals, SCR 20:1.15(f)(2)a
- Telephone transfers, SCR 20:1.15(f)(2)b
- Electronic transfers by 3rd parties, SCR 20:1.15(f)(2)c
- Electronic transfers that do not generate a record of date, amount, payee, client matter and reason for disbursement, SCR 20:1.15(f)(3)b.5

Security Requirements Both IOLTA Accounts

- Security requirements under Option 1
- Two IOLTA Accounts: E-Banking IOLTA and Traditional IOLTA, SCR 20:1.15(f)(3)b
- Replacement of fees, surcharges, chargebacks, ACH reversals, shortfalls and negative balances within 3 business days, SCR 20:1.15(f)(3)b.6

OPTION 3

All-in-One IOLTA

+ Required Business Account

If you want to safeguard funds with a crime insurance policy rather than the pass-through E-Banking Trust Account, an All-in-One IOLTA and a business account may meet your needs.

Permitted Transactions All-in-One IOLTA

- All permitted transactions under Option 1
- Credit, debit, prepaid and other payment cards, subject to SCR 20:1.15(f)(3)c. requirements
- Electronic deposits and disbursements subject to SCR 20:1.15(f)(3)c. requirements

Prohibited Transactions All-in-One IOLTA

- Transfers by voice or ATM, SCR 20:1.15(a)(2)
- Cash and ATM withdrawals, SCR 20:1.15(f)(2)a
- Telephone transfers, SCR 20:1.15(f)(2)b
- Electronic transfers by 3rd parties, SCR 20:1.15(f)(2)c
- Electronic transfers that do not generate record of date, amount, payee, client matter and reason for disbursement, SCR 20:1.15(f)(3)c.4

Security Requirements All-in-One IOLTA

- Security requirements under Option 1
- Bond or crime insurance policy, SCR 20:1.15(f)(3)c.2
- Deduction of fees, surcharges, chargebacks, and ACH reversals from business account or reimbursement of such deductions, shortfalls or negative balances within 3 business days, SCR 20:1.15(f)(3)c.3

OPTION 4

Business Account Only

Few lawyers can practice law without maintaining a trust account. Depending on the nature of your practice and how your legal fees are handled, however, you may be able to maintain a business account only. For example, a lawyer whose practice is limited to insurance defense typically bills for earned fees and any settlements are paid directly by the client. State Bar Ethics Counsel can provide guidance on the need for a trust account. In addition, OLR's Trust Account webpage provides guidance on this topic. For example, see the "State public defender fee payments" link under the Practice Tips section.

Permitted Transactions Business Account

- Advanced fees, as defined in SCR 20:1.0(ag), may be directly deposited into the business account but are subject to the requirements of the fee rule, SCR 20:1.5(g).
- Electronic transactions, including credit, debit, prepaid and other payment cards, and ACH transactions into the business account are not regulated by the trust account rule. See SCR 20:1.15(b) and (f).

Prohibited Transactions Business Account

- Advanced costs are prohibited by SCR 20:1.5(f) from being deposited in the business account.
- Client or third-party deposits received in trust are prohibited by SCR 20:1.15(b)(1) from being deposited in the business account.

Security Requirements Business Account

- Although SCR 20:1.15(b) requires lawyers who receive funds in trust to have a business account, business accounts are not regulated by the trust account rule. See SCR 20:1.15(b) and (f).

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