



Operations Handbook for Financial Institutions\*\*

## I. INTRODUCTION

### What Is IOLTA?

IOLTA stands for **Interest on Lawyers' Trust Accounts**. The IOLTA program allows interest earned on certain pooled lawyer trust accounts—holding client or third-party funds that are nominal in amount or held for a short time—to be used for charitable purposes rather than returned to individual clients where it would be impractical to do so.

In Delaware, IOLTA is **mandatory for attorneys who hold eligible funds** under **Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct**. The Delaware Bar Foundation (DBF) administers the program.

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### How the Delaware IOLTA Program Works

1. Attorneys deposit qualifying trust funds into pooled IOLTA accounts.
2. Financial institutions pay interest on those accounts.
3. Interest is remitted directly to the **Delaware Bar Foundation**.
4. The Foundation uses IOLTA revenue to support:
  - Civil legal aid for low-income Delawareans
  - Law-related education
  - Programs that improve the administration of justice

This program is a **partnership between the legal community and the banking community**, providing significant public benefit at no cost to clients.

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### Benefits to Participating Financial Institutions

Participation in Delaware's IOLTA program is voluntary, but offers meaningful benefits:

- **Community reinvestment & public service**
  - **CRA consideration**, where applicable
  - **Relationship-building with the Delaware legal community**
  - **Stable, low-cost deposit balances**
  - Recognition as an **IOLTA-eligible or Prime Partner institution**
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## **II. OPENING A DELAWARE IOLTA ACCOUNT**

### **A. Account Title**

The account title must clearly identify the fiduciary nature of the account and include language such as:

- “Rule 1.15A Attorney Trust Account”
  - “1.15A Trust Account”
  - “1.15A Escrow Account”
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### **B. Tax Identification Number**

- **Interest earned belongs to the Delaware Bar Foundation**, not the attorney or clients.
  - The **Foundation’s tax identification number** must be used for reporting interest.
  - Financial institutions **should not issue IRS Form 1099** to the attorney or clients for IOLTA interest.
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### **C. Account Type**

IOLTA accounts must be:

- Interest-bearing or dividend-bearing
- Available for withdrawal upon request and without delay

Acceptable account types may include:

- Interest-bearing checking

- Business NOW accounts
  - Money market or similar transaction accounts, if compliant
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#### **D. Signature Cards and Authorized Signers**

Standard institutional procedures apply, but:

- Only a Delaware attorney or an attorney under the direct supervision of the lawyer may be signatories
  - Client names should **not** appear as signatories on pooled IOLTA accounts
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#### **E. Notice of Enrollment**

Upon opening an IOLTA account:

- The **attorney** must complete and sign the **Notice of Enrollment / Notice to Financial Institution**
- A copy must be submitted by the Delaware attorney to the Delaware Bar Foundation

Financial institutions may assist by ensuring attorneys are aware of this requirement.

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### **III. CHARACTERISTICS OF DELAWARE IOLTA ACCOUNTS**

#### **A. Funds Eligible for IOLTA**

Funds placed in IOLTA accounts include:

- Advances for fees not yet earned
- Retainers held temporarily
- Settlement or escrow funds awaiting short-term disbursement
- Funds held in part for a client and in part for an attorney, until earned

Attorneys determine eligibility using reasonable judgment under Rule 1.15.

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#### **B. Comparable Interest Requirement**

Delaware financial institutions may elect to pay a rate on IOLTA accounts equal to 65% of the Federal Funds Target Rate as of the first business day of the month or IOLTA remitting period, *or 0.65%, whichever is higher*, net of allowable reasonable fees as described in Rule 1.15 (h)(1)(C) as the Safe Harbor Rate. **[Note: This option qualifies for Prime Partner Bank status.]**

Eligible Delaware financial institutions who elect not to pay the Safe Harbor Rate, must pay **interest or dividends on IOLTA accounts that are comparable to the highest rate paid on similarly situated non-IOLTA accounts**, when minimum balance and eligibility requirements are met.

This comparability requirement:

- Ensures fairness
- Maximizes public benefit
- Is monitored by the Delaware Bar Foundation

The Foundation will conduct comparability reviews from time to time. By participating in the IOLTA Program, eligible financial institutions agree to cooperate and provide the information requested to complete such reviews.

For institutions relying on comparability rather than the Safe Harbor Rate, once approved, any proposed change that would result in a reduction of the effective rate of your IOLTA product requires 30 days advance notice before it can take effect.

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### **C. Service Charges and Fees**

#### **Not permitted to be deducted from interest on individual accounts:**

- Monthly maintenance fees
- Transaction fees
- Wire or ACH fees
- NSF or overdraft fees
- Check printing or deposit fees

Such fees remain the responsibility of the attorney or firm, who may maintain limited firm funds in the account to cover them.

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#### **D. Minimum Balance Requirements**

- Interest must be paid on **all IOLTA funds**
  - If a minimum balance is required to earn interest, the attorney must maintain that balance
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#### **E. Deposit Insurance**

Client funds in IOLTA accounts are eligible for **FDIC insurance on a per-client basis**, provided:

- The account is properly titled
  - The attorney maintains appropriate internal records
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### **IV. INTERNAL FINANCIAL INSTITUTION POLICIES**

Financial institutions are strongly encouraged to:

#### **A. Designate an IOLTA Contact**

A single knowledgeable contact person helps ensure:

- Accurate account setup
  - Proper interest remittance & monthly report remittance
  - Consistent communication with DBF
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#### **B. Establish Written Procedures**

Internal guidance should address:

- Opening IOLTA accounts
- Applying correct rates
- Remitting interest
- Handling account closures
- Ensure the correct state is receiving the interest income
- Note any new or closed accounts on the monthly remittance report

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### **C. Statement Cycles**

Institutions may reduce errors by:

- Aligning IOLTA statement cycles
  - Posting interest monthly
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### **D. Account Closures**

When an IOLTA account is closed:

- The Delaware Bar Foundation should be notified promptly
  - Closure may be reported through normal remittance reporting
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## **V. INTEREST REMITTANCE AND REPORTING**

### **A. Remittance Frequency**

Interest should be remitted:

- Monthly or quarterly
  - Net of allowable IOLTA fees only
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### **B. Remittance Reports**

Each remittance must be reported in the format provided and uploaded to our portal.

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### **C. Method of Payment**

The Delaware Bar Foundation accepts:

- Automated Clearing House (ACH) payments—preferred
- Wire Transfers
- Checks--only if approved in advance

Remittance instructions are available on the DBF website.

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## **D. Attorney Notification**

Institutions must provide attorneys with:

- Confirmation of interest paid
- Applicable interest rate information

This may be included on regular account statements.

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## **VI. ADDITIONAL RESOURCES**

Financial institutions are encouraged to consult:

- **Delaware Lawyers' Rules of Professional Conduct, Rule 1.15**
  - DBF's **Financial Institutions** webpage
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## **CONTACT INFORMATION**

### **Delaware Bar Foundation**

IOLTA Program

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