

I O L T A
(Interest On Lawyer Trust Accounts)
A Guide to the
IOLTA PROGRAM
for
FINANCIAL INSTITUTIONS



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Revised January 2014

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AN INTRODUCTION TO MLSC and THE IOLTA PROGRAM

The Maryland Legal Services Corporation (MLSC) was established by the Maryland General Assembly in 1982 to raise funds and make grants to nonprofit organizations for the provision of civil legal assistance to low-income persons in Maryland. MLSC is governed by a nine-member Board of Directors appointed by the Governor and confirmed by the Maryland Senate.

At the time the Maryland legislature created MLSC, it also created Maryland's Interest On Lawyer Trust Accounts (IOLTA) program as MLSC's primary source of revenue. The IOLTA program, which was amended in 1989 from a voluntary to mandatory program, requires lawyers to place certain nominal and short-term client funds into pooled interest bearing accounts. The interest on these accounts is remitted by financial institutions to the MLSC Fund, and MLSC's Board of Directors awards grants to nonprofit legal services organizations to assist indigent persons with civil legal problems throughout the state. The trust accounts are, as always, administered by the attorneys and law firms. All 50 states and the District of Columbia have IOLTA programs.

For more than twenty-five years, Maryland's IOLTA program has proved to be a valuable partnership between attorneys and financial institutions to fulfill a critical public need. Virtually every institution that has been approved by the Attorney Grievance Commission of Maryland to receive attorney escrow accounts under the Maryland Rules offers IOLTA to their attorney clients. The law requires that all attorneys, absent a waiver from MLSC, pool all qualified client trust funds (i.e. funds that are nominal in amount or will not be held long enough to generate net interest for the client) in IOLTA accounts with the interest payable to the MLSC Fund.

MLSC has created this manual to explain IOLTA to financial institutions and provide financial institutions with guidelines for participation in this important, worthwhile program. ALL OR ANY PART OF THIS GUIDE MAY BE DUPLICATED AS NEEDED, AND SHOULD BE DISRIBUTED TO ALL APPROPRIATE OPERATIONS PERSONNEL. If you need further information or if the MLSC staff can be of any assistance to you in your implementation or operation of the IOLTA program, please visit our website at www.mlsc.org, or call us at (410) 576-9494, toll-free at 1-800-492-1340. Also, e-mail inquiries may be sent to iolta@mlsc.org.

This manual may be downloaded from the MLSC web site at <http://www.mlsc.org>.

- Financial Guide: <http://mlsc.org/banks/a-guide-to-iolta/>
- Forms: <http://mlsc.org/banks/>

IOLTA: QUESTIONS AND ANSWERS

Q: WHAT IS AN IOLTA ACCOUNT?

A: IOLTA stands for “Interest on Lawyer Trust Accounts.” Attorneys routinely receive client funds to be held in trust for future use. If the amount is large or the funds are to be held for a long period of time, the attorney should place these monies at interest for the benefit of the individual client. However, in the cases of amounts that are small or are to be held for a short time, it is impractical to establish separate interest-bearing accounts for individual clients. In this case, funds are placed into an IOLTA account, with interest earned on the account paid to the Maryland Legal Services Corporation Fund (MLSC). The IOLTA account remains in the lawyer/law firm’s name, but it bears MLSC’s tax identification number (52-1266744).

Q: DO ALL LAWYERS HAVE TO ESTABLISH AN IOLTA ACCOUNT?

A: No. All lawyers must be in compliance with Maryland’s IOLTA law, but compliance does not necessarily require having an IOLTA account. Maryland’s mandatory IOLTA program (Maryland Business Occupations Code, Section 10-303) requires all Maryland attorneys holding qualified client funds (i.e. funds that are nominal in amount or funds that will not be held long enough to generate net interest for the individual client) to establish an IOLTA account. Thus, not every lawyer’s trust account will be an IOLTA account.

For example, if the deposit is large enough and/or will be held long enough to generate net interest for the client, the attorney should hold those trust funds in a separate interest-bearing account for the individual client. Also, a lawyer holding IOLTA-eligible funds may request a waiver from participation in the IOLTA program if the bank assesses allowable reasonable fees on the account and the lawyer believes that such fees will consistently exceed interest earned on the account [Maryland Business Occupations Code, Section 10-303(c)]. A general guideline is that if the escrow account has an average monthly balance below \$3,500 and the bank assesses fees against IOLTA interest, the attorney should request a waiver of participation and instead open a pooled non-interest-bearing escrow account to hold these nominal and short-term funds. Lawyers and law firms -- not financial institutions -- have the responsibility for deciding which accounts they must have and what is deposited in each.

Q: ARE THERE ELIGIBILITY REQUIREMENTS FOR FINANCIAL INSTITUTIONS TO PARTICIPATE IN THE IOLTA PROGRAM?

A: Yes. Participation in IOLTA is voluntary for financial institutions, but a lawyer cannot keep attorney escrow funds in financial institutions unless the financial institution has been approved by the Attorney Grievance Commission to hold such funds pursuant to Maryland Rules of Procedure, Chapter 600, governing attorney trust accounts. Banks, trust companies, savings banks, or savings and loan associations authorized by law to do business in Maryland, in the District of Columbia, or a state contiguous to Maryland, which are insured by an agency or instrumentality of the federal government may apply to become an “approved financial institution.” (Rule 16-602(g)). The Rule requires, among other things, that participating financial institutions pay IOLTA accounts no less than the highest rate generally available to the financial institution’s own non-IOLTA customers when the IOLTA account meets the same minimum balance or other eligibility requirements. (Rule 16-610(b)(1)(D)).

Q: WHAT ARE THE STEPS THAT A BANK NEEDS TO TAKE TO PARTICIPATE IN THE IOLTA PROGRAM?

A: A bank must be approved to hold client trust funds by the Attorney Grievance Commission in order to participate in the IOLTA program. If your financial institution has not yet been approved to hold escrow funds, you must submit a completed “Financial Institution Compliance Agreement,” along with the “IOLTA Addendum” (see page 9 for Agreement & page 13 for IOLTA Addendum and complete instructions). The IOLTA Addendum serves to inform us as to how your financial institution will implement the interest rate provisions of the Rule. It will be carefully reviewed by MLSC along with any additional supporting documentation that may be required, depending on the implementation method you choose. Once MLSC has certified your financial institution’s compliance with IOLTA, it will submit your application to the Maryland Attorney Grievance Commission for approval. Please mail all forms to MLSC at Charles Towers, 15 Charles Plaza, Suite 102, Baltimore, Maryland 21201-3994. Once you are approved, a fully-executed copy of the Financial Institution Compliance Agreement will be mailed to you.

Q. WHAT MUST AN ATTORNEY DO TO OPEN AN IOLTA ACCOUNT?

A: The mechanics of establishing an IOLTA account are simple. All that is required is filling out the “Notice of New IOLTA Account/IOLTA Enrollment Form” and submitting it to an approved IOLTA financial institution. At that time, the financial institution will establish an IOLTA account, according to its own procedures, with interest payable to MLSC. A copy of the IOLTA Enrollment Form is included on page 7 of this Manual, and is also available for download at <http://mlsc.org/banks/enrollment-new-account/>.

Q. IS THERE A SPECIAL TITLE DESIGNATION FOR AN IOLTA ACCOUNT?

A. Maryland Rules of Procedure, Section 16-606 authorizes only three designations for attorney trust accounts - “*Attorney Trust Account*,” “*Attorney Escrow Account*,” or “*Clients’ Funds Account*.” This requirement applies to all IOLTA accounts. **It is important, however, that IOLTA accounts be identified in such a way as to be easily recognized by financial institution personnel.**

Q. ARE THERE ANY SPECIAL CHARACTERISTICS OF IOLTA ACCOUNTS?

A. Account funds must be subject to withdrawal or transfer upon request and without delay, or as soon as permitted by law. The rate of interest payable on the account shall not be less than the rate paid by the financial institution to its regular depositors with similarly-situated accounts. Account service charges assessed against IOLTA interest, if any, must fall within the definition of “allowable reasonable fees” defined in MD Rule 16-610. See page 5 for additional details on interest rates and service charges.

Q. WHAT ARE THE TAX CONSEQUENCES?

A: None. The Internal Revenue Service has ruled that there are no tax consequences to the client, the lawyer, or MLSC. Also, there are no IRS reporting requirements for the lawyer, financial institutions or client since all IOLTA accounts will use the tax identification number of MLSC (Tax I.D. number 52-1266744).

- Q: IS IT NECESSARY TO PREPARE IRS FORM 1099 FOR POOLED IOLTA ACCOUNTS?**
- A: No. Since MLSC is a 501(c)(3) charitable organization, the IRS has advised that a financial institution does not need to report interest income generated by a pooled IOLTA account. In fact, in order to minimize administrative problems, a Form 1099 should **not** be prepared on these accounts. If for some reason it is necessary to prepare the form, MLSC should be shown as the recipient of the interest (MLSC Tax I.D. number 52-1266744), and the form should be mailed directly to MLSC. The attorney or law firm's Tax I.D. number should *never* be used.
- Q: ARE IOLTA PROGRAMS A NEW IDEA?**
- A: No. IOLTA programs were first established in Australia and Canada in the late 1960s and early 1970s to generate funds for legal services to the poor. The first IOLTA program in the United States was established in Florida in 1981. Maryland's program, created in 1982, was the fourth IOLTA program in the nation. Now, all 50 states, the District of Columbia and the U.S. Virgin Islands have adopted IOLTA programs.
- Q: DOES IOLTA BRING IN NEW BUSINESS?**
- A: Yes. Attorneys holding IOLTA-eligible funds are required to establish IOLTA accounts and will seek banks offering this product. Also, experience has shown that financial institution participation in Maryland's IOLTA Honor Roll program attracts new attorney business. Attorneys are excellent sources of referral business, including loans, deposits and trust services.
- Q. WHAT IS THE IOLTA HONOR ROLL AND MUST MY FINANCIAL INSTIUTION BE A MEMBER TO OFFER IOLTA?**
- A. The IOLTA Honor Roll is a joint program of MLSC and the Maryland State Bar Association to encourage financial institutions to pay premium rates on IOLTA accounts. A financial institution is not required to join the Honor Roll, but such participation is strongly encouraged to assist in IOLTA's charitable purposes (see pages 15 & 16 for Honor Roll requirements and Enrollment Form). Honor Roll members are actively promoted to attorney members in a variety of mediums and forums, and participation is an excellent way for financial institutions to attract new attorney and law firm clients. Additionally, MLSC will provide a Community Reinvestment Act (CRA) statement verifying your participation in this important program, and provide other public recognition and promotion as appropriate.
- Q: IS ADDITIONAL INFORMATION AVAILABLE?**
- A: Yes. More information along with downloadable forms are available at www.mlsc.org. Also, the MLSC staff is happy to provide any additional information to financial institutions, as well as to attorneys and firms. Contact MLSC at Charles Towers, 15 Charles Plaza, Suite 102, Baltimore, Maryland 21201-3994. The telephone numbers are: (410) 576-9494 or (800) 492-1340. Inquiries may also be sent by e-mail to iolta@mlsc.org.

COMPLYING WITH IOLTA REQUIREMENTS

- 1. ENROLLMENT.** Attorneys should complete and submit a “Notice of New IOLTA Account/ IOLTA Enrollment Form” to an approved financial institution (see Enrollment Form, page 7). This form gives authority to the financial institution to establish IOLTA accounts for lawyer/law firm customers and instructs the financial institution to set up (if new) or change the status of an existing (non-interest-bearing) pooled account to an interest-bearing account; use MLSC’s tax identification number (52-1266744) on each IOLTA account instead of the lawyer/law firm’s tax identification number; and on a monthly or quarterly basis, remit interest for each IOLTA account, less allowable reasonable fees, if any, directly to MLSC’s depository bank (detailed remittance information follows).

Copies of each IOLTA Enrollment Form should be completed and sent each monthly/quarterly remittance period to Maryland Legal Services Corporation, Charles Towers, 15 Charles Plaza, Suite 102, Baltimore, MD 21201-3994. Additional copies of the “Notice of New IOLTA Account/IOLTA Enrollment Form” are available for download at www.mlsc.org.

- 2. ACCOUNT ESTABLISHMENT:** An IOLTA Account may be established as a basic interest-bearing checking account; any other suitable interest-bearing checking account offered by the financial institution to its other non-IOLTA customers; or a business checking account with an overnight sweep investment feature into repurchase agreements fully collateralized by U.S. Government securities, if such accounts are offered to similarly-situated non-IOLTA customers. Regardless of which product is used for the particular IOLTA account, it is important that **STEPS BE TAKEN TO ENSURE THAT THESE ACCOUNTS ARE CLEARLY IDENTIFIED AS IOLTA ACCOUNTS**, and to make certain that the regulations for IOLTA accounts cannot be overlooked at a future time by personnel not familiar with the IOLTA program.
- 3. INTEREST RATES:** The interest rate paid on IOLTA accounts may not be less than the highest rate generally available from the financial institution to its non-IOLTA customers when the account meets the same minimum balance or other eligibility qualifications. This requirement may be met by: 1) establishing the IOLTA account in an account type listed in item 2, above, paying the highest rate for which the particular IOLTA account qualifies; 2) retain the existing IOLTA product and pay the equivalent applicable rate that would be paid on the highest yield product the financial institution offers and for which the IOLTA account qualifies; 3) offer a “safe harbor” rate that is equal to 55% *net yield* of the federal funds Target Rate as reported on the first calendar day of the month on high-balance IOLTA accounts (i.e. typically \$100,000 or greater); 4) paying an agreed upon rate specified by MLSC.
- 4. SERVICE CHARGES:** “Allowable Reasonable Fees” in amounts customarily charged to non-IOLTA customers with the same type of accounts and balances may be deducted from interest earned on IOLTA accounts, except for “safe harbor” rate accounts, which are already deemed to be net of allowable reasonable fees. Fees that are NOT allowable reasonable fees include fees for wire transfers, certified checks, account reconciliation services, presentations against insufficient funds, overdrafts, or deposits of dishonored items. Fees that are not allowable reasonable fees are the responsibility of, and may be charged to, the attorney or law firm maintaining the IOLTA account.

IOLTA accounts contain client funds held in trust by attorneys, and any transaction fees or service charges on these accounts MUST NOT be deducted from the principal in these accounts. It is essential that financial institution personnel understand that the principal in these trust accounts

must not be invaded for service charges. Any fees or charges must be deducted from interest earned or charged to the law firm maintaining the account pursuant to Maryland Rule 16-610(b)(1)(D)(iii).

Nothing in the Maryland Rules precludes an approved Financial Institution from paying higher rates than required or electing to waive fees and service charges on IOLTA. MLSC and the Maryland State Bar Association encourage favorable rates and fee waivers to help support the IOLTA program's charitable purposes, and are partners in the IOLTA Honor Roll Program. (See page 15 for information regarding Maryland's IOLTA Honor Roll).

5. INTEREST REMITTING AND REPORTING:

- a) **Remittance of Funds:** Interest generated on IOLTA deposits, net of allowable reasonable fees, if any, must be remitted either monthly or quarterly to the MLSC depository bank lockbox. Payment may be made by check or ACH transfer. If your financial institution maintains IOLTA accounts for more than one attorney or law firm, a single remittance for all accounts should be made at one time.
- b) **Remittance Report:** The "IOLTA Remittance Report" allows MLSC to record IOLTA interest by individual lawyer/law firm IOLTA accounts, using the account number assigned by the financial institution. Financial institutions should use the remittance report format included in this handbook (see pages 17-19). The remittance report **MUST** include the name of the lawyer or firm, the account number, the collected average monthly balance, the rate of interest applied, gross interest, any service charges assessed and the net interest remitted for the account. **An electronic file with this information is required** in either EXCEL or CSV (comma separated value) format. An Excel spreadsheet template as well as CSV format instructions are available at www.mlsc.org, and remittance reports can be e-mailed to iolta@mlsc.org. Alternatively, the report can be submitted on disc (see below). Please note that *remittance reports are sent directly to MLSC, whereas remittance payments are sent directly to MLSC's depository bank.* **REMITTANCE REPORTS ARE NOT SENT WITH CHECKS TO THE P.O. BOX.** Also, for each monthly/quarterly remittance period, copies of "Notice of New IOLTA Account/IOLTA Enrollment Form" should be submitted to MLSC for each new account.

REMITTANCES

Send ACH remittances to:

(please call our office at the number listed below for Routing Number and Account Number)

Send checks to:

Maryland Legal Services Corporation
P.O. Box 758892
Baltimore, Maryland 21275-8892

REPORTS

Send Remittance Reports via e-mail to:

iolta@mlsc.org

Mail Remittance Report on disc to:

Maryland Legal Services Corporation
Charles Towers
15 Charles Plaza, Suite 102
Baltimore, MD 21201-3994

Please contact MLSC at (410) 576-9494 or (800) 492-1340 if you have questions about remitting funds and submitting reports. **NOTE: All forms may be downloaded from the MLSC website at <http://mlsc.org/banks/>.**

NOTICE OF NEW IOLTA ACCOUNT IOLTA ENROLLMENT FORM

MANDATORY INTEREST ON LAWYER TRUST ACCOUNTS PROGRAM

The Maryland General Assembly enacted a mandatory Interest on Lawyer Trust Accounts (IOLTA) program, effective July 1, 1989 (Maryland Code, Business Occupations and Professions, Section 10-303). The undersigned attorney hereby declares compliance with the IOLTA Act by establishing an IOLTA account as indicated below.

The undersigned attorney further directs the financial institution(s) named below to take appropriate action as indicated regarding opening an IOLTA account or converting existing accounts to IOLTA accounts. The undersigned attorney acknowledges that if the financial institution refuses to comply with such instructions, he/she will be responsible to transfer all IOLTA-eligible funds to a financial institution which will provide IOLTA services.

I have established an interest bearing client trust account(s) with the financial institution(s) listed below and hereby direct said institution(s) to establish this account as an IOLTA account with interest payable to the Maryland Legal Services Corporation as required by Maryland Code, Business Occupations and Professions, Section 10-303.

ACCOUNT INFORMATION & ATTORNEY/LAW FIRM IDENTIFICATION

Name of Account(s) _____

Account Number(s) _____

Name of Financial Institution _____

Mailing Address of Financial Institution _____

_____ Telephone No. _____

Name of Attorney (please print) _____

Name of Firm Managing/IOLTA Reporting Attorney _____

Office Address (please print) _____

Telephone No. _____ E-mail _____

Authorized Account Signatories (please print)

(Attach additional sheet if necessary)

Authorized Account Signature _____ Date _____

Form may be downloaded at <http://mlsc.org/banks/enrollment-new-account/>.

INSTRUCTIONS TO ATTORNEY:

1. **NOTICE OF NEW IOLTA ACCOUNT/IOLTA ENROLLMENT FORM(S) MUST BE SUBMITTED TO AN APPROVED FINANCIAL INSTITUTION.**
2. If any account listed is used by more than one lawyer, please list the name of each lawyer who uses such account(s) on page 1 in the space provided, or attach a list (or firm letterhead, if appropriate).
3. You may wish to make and retain a copy of this form for your records. Your financial institution will provide accounting statements directly to you. If you would like to be informed of the net interest received from your IOLTA account(s), please contact MLSC at the number listed below.
4. The MLSC brochure "IOLTA – Interest on Lawyer Trust Accounts" has been prepared to answer your questions about IOLTA. If after reading this brochure you have other questions about IOLTA, compliance with the IOLTA statute or how to complete this form, please call 1-800-492-1340, ext. 1000 or (410) 576-9494, ext. 1000 or visit the MLSC website at www.mlsc.org.

INSTRUCTIONS TO FINANCIAL INSTITUTION:

1. Interest accrued on the account (net of allowable service charges or fees, if any) should be remitted monthly or quarterly electronically by use of an ACH transaction (please call our office at the number listed below for Routing Number and Account Number) or by check to the Maryland Legal Services Corporation (MLSC), P.O. Box 758892, Baltimore, Maryland 21275-8892. Interest should be computed on the average monthly balance in the account, or as otherwise computed in accordance with your standard accounting practice.
2. For each remittance, a report should be prepared showing the name of the lawyer or law firm for whom the remittance is sent, the account number, the average monthly balance, the rate of interest applied, gross interest, service charges or fees and the net amount remitted. If your institution has IOLTA accounts for more than one lawyer or law firm participating in the IOLTA program, a single remittance for all of them should be made at the same time. Please ensure that the remittance statement includes all necessary information so that MLSC staff can determine the exact allocation of the lump sum payment among the firms involved. Reports should be sent by e-mail to iolta@mlsc.org or mailed on disc to the MLSC office.
3. For each monthly/quarterly remittance period, a copy of the "Notice of New IOLTA Account/IOLTA Enrollment Form" **for each new account** should be forwarded to the MLSC office.
4. Information returns (IRS Form 1099) are **NOT** required on this account, but if they are produced, such returns should reflect MLSC, Tax I.D. No. 52-1266744, as the recipient of the interest. Do not prepare an IRS Form 1099 reporting interest income to the attorney/law firm depositor or client trustee for this account, as the interest income recipient is MLSC (a nonprofit, tax-exempt organization).
5. MLSC has prepared a "Guide to the IOLTA Program for Financial Institutions." Please notify MLSC if you have not received a copy of this manual. If after reading these instructions and the manual you have questions about implementing the IOLTA program at your financial institution call (800) 492-1340, ext. 1000 or (410) 576-9494, ext. 1000 or visit the MLSC website at www.mlsc.org.

The establishment of trust accounts by law firms and professional associations to implement the IOLTA program has been approved by the Internal Revenue Service and the Federal Reserve System. Copies of these opinions are available upon request to MLSC.

Maryland Legal Services Corporation

Charles Towers
15 Charles Plaza, Suite 102
Baltimore, Maryland 21201
(410) 576-9494
Toll-Free 1-800-492-1340
Fax Number (410) 385-1831
E-mail: iolta@mlsc.org
www.mlsc.org

FINANCIAL INSTITUTION COMPLIANCE AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20____,

by and between **THE MARYLAND LEGAL SERVICES CORPORATION**, 15 Charles Plaza,
Suite 102, Baltimore, Maryland 21201 (hereinafter "MLSC"), and _____

_____, whose principal office is
located at: _____ (hereinafter
"Financial Institution"),

WITNESS TO:

The undersigned, an officer of the Financial Institution executing this Agreement, being duly authorized to bind said institution by this Agreement, hereby applies to **THE ATTORNEY GRIEVANCE COMMISSION OF MARYLAND** (hereinafter "AGC"), 100 Community Place, Suite 3301, Crownsville, MD 21032, to be approved to receive attorney escrow, trust or client's fund accounts, as defined in Rule 16-610 of the Maryland Rules of Procedure, attached hereto, from attorneys for the deposit of clients' or third parties' funds, hereinafter referred to as "Trust Accounts." In consideration of AGC's approval of the Financial Institution, it agrees to comply with the reporting and other requirements as set forth in Rule 16-610 as amended from time to time.

Specifically, the named Financial Institution agrees as follows:

1. Notification to Attorney or Law Firm. To notify the attorney or law firm promptly of an overdraft in any Trust Account or the dishonor for insufficient funds of any instrument drawn on any Trust account held by it.
2. Notification to Bar Counsel. To report the overdraft or dishonor to Bar Counsel of the AGC as provided by Rule 16-610 (b) (1) (C), unless the Financial Institution determines from its records that the overdraft was in error or no longer exists or that the full amount of the dishonored instrument has been paid to the person entitled by the instrument to payment. The report may be

made by mailing to Bar Counsel a copy of the overdraft notice or notice of dishonor if the copy identifies the attorney or law firm and the account number.

3. Rates of Return and Allowable Fees on Interest on Lawyer Trust Accounts (hereinafter "IOLTA"). To pay interest on IOLTA deposits at a rate no less than the highest non-promotional rate generally available to non-IOLTA customers in accordance with Rule 16-610 (b) (1) (D) (i) or otherwise comply by agreeing to an option provided in Rule 16-610 (b) (1) (D) (ii), and deduct from IOLTA revenue only "Allowable Reasonable Fees," if any, as defined in Rule 16-610 (b) (1) (D) (iii), as certified in the attached "IOLTA Addendum" to this agreement, incorporated by reference and made a part hereof.
4. Audit of Trust Account. To allow reasonable access to all records of the Trust Accounts if an audit of such account is ordered pursuant to Rule 16-722 (Audit of Attorney's Accounts and Records), in compliance with the provisions of Md. Code Ann., Financial Institutions, 1-301, et seq., as amended from time to time.
5. Form of Reports. That all such reports shall be substantially in the following format:
 - (a) in the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the institution's other regular account holders;
 - (b) if an instrument is honored but at the time of presentation the total funds in the account, both collected and uncollected, do not equal or exceed the amount of the instrument, the report shall identify the financial institution, the attorney or law firm maintaining the account, the account name, the account number, the date of presentation for payment, and the payment date of the instrument, as well as the amount of the overdraft created.
6. Consent of Attorneys of Law Firm. The Financial Institution agrees to obtain, with respect to each Trust Account, the written consent of the attorney or law firm opening such account to the notification to Bar Counsel set forth in paragraph 2 of this Agreement.

7. Service Charges. Nothing in this Agreement shall preclude the Financial Institution from charging any attorney or law firm maintaining a Trust Account, a reasonable fee for providing any notice or record required pursuant to this Agreement.
8. Termination of Agreement. This Agreement shall terminate only if:
- (a) The Financial Institution files a petition under any applicable insolvency law or makes an assignment for the benefit of creditors; or
 - (b) The Financial Institution gives thirty (30) days notice in writing to Bar Counsel that the Institution intends to terminate this Agreement on a stated date and that copies of the termination notice have been mailed to all attorneys and law firms that maintain Trust Accounts with the Financial Institution or any branch thereof; or
 - (c) After a complaint is filed by MLSC or on its own initiative, the AGC finds, after prior notice to the Financial Institution and after an adequate opportunity to be heard, that the Financial Institution has failed or refused, without justification, to perform a duty required by this Agreement. The AGC shall notify the Institution that the agreement and the Commission's approval of the institution are terminated; or An amendment to this Agreement is requested by the AGC or is mandated by rule of court or binding statute in the State of Maryland and the Financial Institution declines or fails to agree to such amendment within thirty (30) days after written notice by the AGC.
9. Exceptions. Within 15 days after service of the notice of termination pursuant to Paragraph 8 (c) of this Agreement, the Institution may file with the Court of Appeals exceptions to the decision of the Commission. The Institution shall file eight copies of the exceptions which shall conform to the requirements of Maryland Rule 8-112. The Court shall set a date for oral argument, unless oral argument is waived by the parties. Oral argument shall be conducted in accordance with

Maryland Rule 8-522. The decision of the Court of Appeals is final and shall be evidenced by an order of the Court.

10. Binding Effect. This Agreement shall be binding upon the Financial Institution and any branch thereof receiving Trust Accounts.

IN WITNESS WHEREOF, the Financial Institution has executed the within Agreement on the day and year first above written.

MARYLAND LEGAL SERVICES CORPORATION

ATTEST:

Secretary

By: _____
Susan M. Erlichman
Executive Director
Maryland Legal Services Corporation

(Name of Financial Institution)

ATTEST:

Secretary

By: _____
Officer's Signature

Officer's Name (print)

Title: _____

**Maryland Legal Services Corporation
Rule 16-610 IOLTA Addendum**

I. Declaration of the Financial Institution

Upon reviewing the revised Rule 16-610 (b)(1)(D) effective April 1, 2008, the financial institution shall (Please check and complete **one** of the following from A-E below):

- A. Pay a "safe harbor" variable interest rate on high balance IOLTA accounts no less than 55% of the Federal Funds Target Rate, which is deemed to be net of all allowable reasonable fees, as described in section 16-610 (b)(1)(D) (ii) of the revised Rule. [Note: Beginning January 1, 2009, the benchmark rate for comparability purposes is .55% based on the last viable Federal Funds target rate of 1%, until further notice.]
- B. Adjust the interest rate paid on IOLTA accounts to equal the rate paid on the following account/ product: _____ at an interest rate of: _____%, which is the highest non-promotional interest rate for which IOLTA accounts qualify.
- C. Convert existing IOLTA accounts to a new or existing product type, entitled: _____ at an interest rate of: _____%, which is the highest non-promotional interest rate for which IOLTA accounts qualify.
- D. Other (please describe or attach addendum):

_____.
- E. Continue to pay _____ % which is the same rate as our _____ account, which is the highest non-promotional interest rate for which IOLTA accounts qualify.

Please review and/or complete **all** of the following (F-I):

- F. Review our service charge policy to insure it complies with "allowable reasonable fees" as described in 16-610 (b)(1)(D)(iii) of the revised Rule.
- G. The effective date of the changes above will be: ____/____/____
- H. On a monthly or quarterly basis (please check one), net income from IOLTA accounts and a detailed remittance report will be issued to MLSC, in a form and manner directed by MLSC.
- I. Financial Institution Name:_____.

II. Documentation Requirement

Required for Certification: Please attach substantiating documentation for all bank deposit/investment products noted below. However, no further documentation is required for institutions choosing I.A above, the safe harbor interest rate.

- Internal rate sheet on ALL deposit/investment accounts.
- Explanatory product literature and disclosures in support of Part I, above.
- Any analysis or explanation in support of Part I above.
- All documentation and disclosures for business sweep products.

Please Note: Submissions are incomplete without the above documentation and may delay approval and certification under this agreement.

III. Reporting Institution

Name of financial institution: _____

Name of person executing this form: _____

Title: _____

Contact Person (if different): _____

Address: _____

Telephone: _____ E-mail: _____

Fax: _____ Web Address: _____

I certify that the above statements are true and accurate and that the information requested in sections I and II has been provided.

Signature: _____

Date: _____

Please mail or fax this form to:

Maryland Legal Services Corporation
15 Charles Plaza, Suite 102
Baltimore, MD 21201
Attn: Financial Institution Compliance

Fax: (410) 385-1831
Phone: (410) 576-9494

Thank you. We will review your information and contact your institution if we require additional information or if further action on your part is required.

January 2009

Form may be downloaded at <http://mlsc.org/banks/letter-of-agreement/>.



**MARYLAND STATE BAR ASSOCIATION &
MARYLAND LEGAL SERVICES CORPORATION
FINANCIAL INSTITUTION
HONOR ROLL PROGRAM**



The Maryland Legal Services Corporation (MLSC) and Maryland State Bar Association (MSBA) wish to recognize Maryland financial institutions for their commitment to improving access to justice in their community by inviting them to participate in our newly revised Honor Roll Program. This program gives financial institutions the opportunity to be recognized both locally and statewide for significantly benefiting their communities.

The Maryland Court of Appeals amended the Maryland Rules on December 3, 2007 to require attorneys to place IOLTA accounts at financial institutions that pay interest rates comparable to other similarly situated accounts. ***Honor Roll Financial Institutions are those that go above and beyond the requirements of the revised rule*** to foster the IOLTA program in its mission to ensure that low-income Marylanders have access to critically needed legal aid. Financial institutions that agree to pay a net yield of 65 percent or more of the federal funds target rate on IOLTA deposits are members of Maryland's newly revised Financial Institution IOLTA Honor Roll.

Honor Roll benefits include:

- Highlighted on MSBA & MLSC websites
- Active link from MLSC website to Honor Roll member website
- Featured in press releases issued to local and statewide media
- Prominently featured in Maryland's premier legal newspaper, *The Daily Record*
- Endorsed as Honor Roll members and promoted at all MLSC events
- Promoted and prominently featured at MSBA events, including MSBA Annual Meeting
- Featured at various local & specialty bar meetings
- Broad publication of Honor Roll members in local & statewide bar publications & newsletters
- Promoted at semi-annual MSBA Professionalism Course, a mandatory program attended by every newly-admitted Maryland attorney.

Enrollment is easy. Simply complete and return the enclosed enrollment form. Promotion of your financial institution as an Honor Roll member will begin immediately upon receipt of enrollment.



**MARYLAND STATE BAR ASSOCIATION &
MARYLAND LEGAL SERVICES CORPORATION
FINANCIAL INSTITUTION
HONOR ROLL ENROLLMENT FORM**



Please be advised that our financial institution has agreed to participate in the MSBA/MLSC Financial Institution Honor Roll Program and agree to pay the higher of either a net yield of at least 65 percent of the Federal Funds target interest rate or an interest rate of 1% on IOLTA deposits. We will implement this as follows (check one):

1. _____ Current rates paid on IOLTA accounts equal or exceed an average net yield of the higher of either 65 percent of the Federal Funds target interest rate or 1%, and we will continue to meet or exceed this requirement using our current IOLTA rate structure/products.

2. _____ The interest rate structure/products for IOLTA deposits will be amended as follows to achieve an average net yield on IOLTA deposits that equals or exceeds the higher of either 65 percent of the Federal Funds target interest rate or 1% as described: _____

The effective date of this change is: _____

Financial Institution Name: _____

Address: _____

City, State & Zip Code: _____

Phone, Fax, e-mail: _____ (phone) _____ (fax) _____ (e-mail)

Authorized by: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____ Date: _____

Please mail or fax this form to:

Maryland Legal Services Corporation
15 Charles Plaza, Suite 102
Baltimore, MD 21201

Fax: 410-385-1831
Phone: 410-576-9494

Note: MLSC and the MSBA encourage all financial institutions to become members of the IOLTA Honor Roll. Such membership, however, is not required to be in compliance with the revised Maryland Rule 16-610. Financial Institutions may join the Honor Roll at anytime.

MARYLAND LEGAL SERVICES CORPORATION
Financial Institution IOLTA Remittance

Summary Report

FINANCIAL INSTITUTION INFORMATION

Institution: Nami First National Bank of MD
 Address: 123 Main Street
 City: Baltimore
 State: MD Zip: 01234
 Email: stevejohnson@firstnationalmd.com
 Phone: (123) 456-7890
 Prepared By: Steve Johnson Date Submitted: 8/15/2008

PAYMENT INFORMATION

Period Begin Date: 7/1/2008
 Check/ACH Number: 12456
 Period End Date: 7/31/2008
 Check/Settlement Date: 8/10/2008
 Total Interest Earned: \$ 12,500.00
 Service Fees: \$ -
 Admin Fees: \$ -
 Other Adjustments: +/- \$ -
 Net Amount Remitted: \$ 12,500.00

Number of Accounts this Report: 525
 Description of Adjustments: None this period

INTEREST RATE INFORMATION

Please check one of the following boxes:
 Honor Roll Institution 65% or greater of Fed Funds Rate
 Safe Harbor Institution* 55% or greater of Fed Funds Rate
 Other

Please enter rate info below:

Single Rate All Balances For Interest Rates Tiered By Balance =====>

Date	Balance	Rate	Balance 2	Rate 2	Balance 3	Rate 3	Balance 4	Rate 4	Balance 5	Rate 5
7/1/2008	\$ 10	2.00%	\$ 5,000	2.50%	\$ 50,000	3.00%	\$ 100,000	4.00%	\$ 1,000,000	5.00%
7/10/2008	\$ 10	2.25%	\$ 5,000	2.75%	\$ 50,000	3.25%	\$ 100,000	4.25%	\$ 1,000,000	5.25%
7/20/2008	\$ 10	2.50%	\$ 5,000	3.00%	\$ 50,000	3.50%	\$ 100,000	4.50%	\$ 1,000,000	5.50%
Effective Date/New Rate =====>										
Effective Date/New Rate =====>										

Other Notes:

*Safe Harbor interest rates should be calculated as of the first business day of each month.

SUBMISSION INFORMATION

Please submit completed reports on electronic media (disk, portable drive, etc.) OR send by secure email to:

Maryland Legal Services Corporation
 Charles Towers
 15 Charles Plaza, Suite 102
 Baltimore, Maryland 21201-3994
 Email: iolta@mlsc.org

FINANCIAL INSTITUTION IOLTA REMITTANCE

Detail Report

Account Name	Account Number	Average Monthly Collected Balance	Interest Rate	Gross Interest	Service Charges	Net Interest	Closed / New
Smith and Wollensky, LLC	123456789	\$ 1,500.00	1.25%	\$ 10.00	\$ -	\$ 10.00	N
						\$ -	C
						\$ -	
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						\$ -	
TOTAL		\$ 1,500.00		\$10.00	\$0.00	\$10.00	

Number of Accounts Sum: 1

N Number of New Accounts: 1

INSTRUCTIONS:

C Number of Closed Accounts: 1

MLSC requires financial institutions to provide the above data in an electronic data file.

The electronic data file should be either an excel file or a comma separated value (csv, comma delimited) file and comply with the specifications on page 19.

Financial institutions that cannot generate electronic data files should contact MLSC for further instructions.

For New Accounts enter "N" in the last column' For Close Accounts enter "C" in the last column. Entry is case sensitive, please use Capitals.

MLSC IOLTA CSV File Import/Export Specifications

Data should be contained within a Comma Separated Value Spreadsheet (.csv file).

The file name should reflect your bank name and time period. In format:

BanknameYear-Month.CSV

Example: MarksBank2008-07.CSV

The following fields need to be included in order:

Account Name	Text, contained within Quotes. Example: "Dewey, Cheetum, and Howe"
Account Number	Text, contained within Quotes. Example: "000123456-AB" (Leading/Padded zeroes are not required)
Average Collected Monthly Balance	Numeric, in decimal form, no comma, no dollar sign. Example: 10000.00
Interest Rate	Numeric, in decimal form, with leading zero. Example: For value 1.75% use 0.0175
Gross Interest	Numeric, in decimal form, no comma, no dollar sign. Example: 175.00
Service Charge	Numeric, in decimal form, no comma, no dollar sign. Example: 12.50
Net Interest	Numeric, in decimal form, no comma, no dollar sign. Example: 162.50
New/Closed	Text, contained within Quotes. Use a capital N if the account is New; a capital C if the account is closed, and left blank if neither is true. Accepted Values: "C", "N", ""

A header line is not required.

Below is a two line representation of the file:

"Smith and Wollensky", "123456789", 1500.00, 0.0125, 20.00, 1.25, 18.75, N
 "Dewey, Cheetum, and Howe", "123456789", 2500.00, 0.0225, 10.00, 3.50, 6.50, C

A P P E N D I X

**IOLTA STATUTE — MARYLAND ANNOTATED CODE,
BUSINESS OCCUPATIONS AND PROFESSIONS, SECTION 10-303**

§ 10-303. Interest on attorney trust account

- (a) Subject to this section a lawyer shall deposit trust money in an attorney trust account, all interest on which is payable to the Maryland Legal Services Corporation Fund established under § 7-408 of the Courts Article.
- (b) A lawyer shall deposit trust money in an interest bearing account under this section whenever the lawyer reasonably expects that, for the period that the lawyer expects to hold the trust money, the interest that it would earn:
 - (1) Would not exceed \$50; or
 - (2)(i) Would exceed \$50; but
 - (ii) Would not cover the cost of administering an interest bearing account on which interest is payable to the client or beneficial owner.
- (c) The Administrative Office of the Courts, in consultation with the Maryland Legal Services Corporation, may waive the provisions of subsection (b) of this section with respect to a lawyer or law firm that demonstrates that it will cost the Maryland Legal Services Corporation Fund more in service charges to open and maintain an attorney trust account with the interest payable to the Maryland Legal Services Corporation Fund than will be generated in interest by the attorney trust account.
- (d)(1) At least quarterly, each financial institution that has an account described under this section shall:
 - (i) Deduct from the total interest accumulated in the account any service charge due on the account; and
 - (ii) Pay the net interest to the Maryland Legal Services Corporation Fund.
- (2) A financial institution:
 - (i) May not charge against the individual accounts of a lawyer any service charges for trust moneys in an account under this section; and
 - (ii) May charge the Maryland Legal Services Corporation Fund.

Acts 1989, c. 3, § 1; Acts 1989, c. 502, § 2; Acts 1989, c. 632, § 3; Acts 1991, c. 522; Acts 1998, c. 765, § 1, eff. July 1, 1998.
Formerly Art. 10, § 44.

§ 10-304. Deposit into attorney trust account

- (a) Except as provided in subsection (b) of this section, a lawyer expeditiously shall deposit trust money into an attorney trust account.
- (b) Subsection (a) of this section does not apply if there is a court order to the contrary.
- (c) Notwithstanding subsection (a) of this section or any other law, a lawyer may disburse, at settlement in a real estate transaction, trust money that the lawyer receives in the transaction.

Acts 1989, c. 3, § 1; Acts 1989, c. 632, § 3. **Formerly** Art. 10, § 44.

MARYLAND RULES OF PROCEDURE CHAPTER 600. ATTORNEY TRUST ACCOUNTS

Rule 16-601. Applicability.

The Rules in this Chapter apply to all trust accounts required by law to be maintained by attorneys for the deposit of funds that belong to others, except that these Rules do not apply to a fiduciary account maintained by an attorney as personal representative, trustee, guardian, custodian, receiver, or committee, or as a fiduciary under a written instrument or order of court. Adopted effective January 1, 1997.

Source: This Rule is former Rule BU1.

Rule 16-602. Definitions.

In these rules, the following definitions apply, except as expressly otherwise provided or as necessary implication requires:

- a. Approved Financial Institution.** "Approved financial institution" means a financial institution approved by the Commission in accordance with these Rules.
- b. Attorney.** "Attorney" means any person admitted by the Court of Appeals to practice law.
- c. Attorney Trust Account.** "Attorney trust account" means an account, including an escrow account, maintained in a financial institution for the deposit of funds received or held by an attorney or law firm on behalf of a client or third person.
- d. Bar Counsel.** "Bar Counsel" means the person appointed by the Commission as the principal executive officer of the disciplinary system affecting attorneys. All duties of Bar Counsel prescribed by these Rules shall be subject to the supervision and procedural guidelines of the Commission.
- e. Client.** "Client" includes any individual, firm, or entity for which an attorney performs any legal service, including acting as an escrow agent or as a legal representative of a fiduciary. The term does not include a public or private entity of which an attorney is a full-time employee.
- f. Commission.** "Commission" means the Attorney Grievance Commission of Maryland, as authorized and created by Rule 16-702 (Attorney Grievance Commission).
- g. Financial Institution.** "Financial institution" means a bank, trust company, savings bank, or savings and loan association authorized by law to do business in this State, in the District of Columbia, or in a state contiguous to this State, the accounts of which are insured by an agency or instrumentality of the United States.
- h. Law Firm.** "Law firm" includes a partnership of attorneys, a professional or nonprofit corporation of attorneys, and a combination thereof engaged in the practice of law. In the case of a law firm with offices in this State and in other jurisdictions, these Rules apply only to the offices in this State. (Adopted effective January 1, 1997.)

Source: This Rule is former Rule BU2.

Rule 16-603. Duty to maintain account.

An attorney or the attorney's law firm shall maintain one or more attorney trust accounts for the deposit of funds received from any source for the intended benefit of clients or third persons. The account or accounts shall be maintained in this State, in the District of Columbia, or in a state contiguous to this State, and shall be with an approved financial institution. Unless an attorney maintains such an account, or is a member of or employed by a law firm that maintains such an account, an attorney may not receive and accept funds as an attorney from any source intended in whole or in part for the benefit of a client or third person. (Adopted effective January 1, 1997.)

Source: This Rule is former Rule BU3.

Rule 16-604. Trust account – Required deposits.

Except as otherwise permitted by rule or other law, all funds, including cash, received and accepted by an attorney or law firm in this State from a client or third person to be delivered in whole or in part to a client or third person, unless received as payment of fees owed the attorney by the client or in reimbursement for expenses properly advanced on behalf of the client, shall be deposited in an attorney trust account in an approved financial institution. This Rule does not apply to an instrument received by an attorney or law firm that is made payable solely to a client or third person and is transmitted directly to the client or third person. (Adopted effective January 1, 1997.)

Source: This Rule is former Rule BU4.

Rule 16-605. Duty of attorney to notify institution.

An attorney may not exercise any authority to sign checks or disburse or withdraw funds from an attorney trust account until the attorney in writing:

- a. Requests the financial institution to designate the account on its records as an attorney trust account, and
- b. Authorizes the financial institution to report to Bar Counsel any dishonored instruments or overdrafts in the account as required by the agreement under Rule 16-610 between the institution and the Commission. (Adopted effective January 1, 1997.)

Source: This Rule is former Rule BU5.

Rule 16-606. Name and designation of account.

An attorney or law firm shall maintain each attorney trust account with a title that includes the name of the attorney or law firm and that clearly designates the account as "Attorney Trust Account", "Attorney Escrow Account", or "Clients' Funds Account" on all checks and deposit slips. The title shall distinguish the account from any other fiduciary account that the attorney or law firm may maintain and from any personal or business account of the attorney or law firm. (Adopted effective January 1, 1997.)

Source: This Rule is former Rule BU6.

Rule 16-607. Commingling of funds.

- a. General Prohibition.** An attorney or law firm may deposit in an attorney trust account only those funds required to be deposited in that account by Rule 16-604 or permitted to be so deposited by section b. of this Rule.
- b. Exceptions.**

1. An attorney or law firm shall either (A) deposit into an attorney trust account funds to pay any fees, service charges, or minimum balance required by the financial institution to open or maintain the account, including those fees that cannot be charged against interest due to the Maryland Legal Services Corporation Fund pursuant to Rule 16-610 b 1 (D), or (B) enter into an agreement with the financial institution to have any fees or charges deducted from an operating account maintained by the attorney or law firm. The attorney or law firm may deposit into an attorney trust account any funds expected to be advanced on behalf of a client and expected to be reimbursed to the attorney by the client.
2. An attorney or law firm may deposit into an attorney trust account funds belonging in part to a client and in part presently or potentially to the attorney or law firm. The portion belonging to the attorney or law firm shall be withdrawn promptly when the attorney or law firm becomes entitled to the funds, but any portion disputed by the client shall remain in the account until the dispute is resolved.
3. Funds of a client or beneficial owner may be pooled and commingled in an attorney trust account with the funds held for other clients or beneficial owners. (Adopted effective January 1, 1997. Amended June 10, 1997, effective July 1, 1997; January 20, 1999, effective July 1, 1999.)

Source: This Rule is former Rule BU7.

Rule 16-608. Interest on funds in attorney trust accounts.

a. Generally. Any interest paid on funds deposited in an attorney trust account, after deducting service charges and fees of the financial institution, shall be credited and belong to the client or third person whose funds are on deposit during the period the interest is earned, except to the extent that interest is paid to the Maryland Legal Services Corporation Fund as authorized by law. The attorney or law firm shall have no right or claim to the interest.

b. Duty to Report IOLTA Participation. Each attorney admitted to practice in Maryland shall report annually information concerning all IOLTA (Interest on Lawyer Trust Accounts) accounts, including name, address, location, and account number, on a form approved by the Court of Appeals and mailed and returned annually as directed by the Court of Appeals. Adopted effective January 1, 1997. (Amended January 20, 1999, effective July 1, 1999; amended November 1, 2001, effective January 1, 2002.)

Source: Section a of this Rule is former Rule BU8. Section b is new.

Rule 16-609. Prohibited transactions.

An attorney or law firm may not borrow or pledge any funds required by these Rules to be deposited in an attorney trust account, obtain any remuneration from the financial institution for depositing any funds in the account, or use any funds for any unauthorized purpose. An instrument drawn on an attorney trust account may not be drawn payable to cash or to bearer. (Adopted effective January 1, 1997.)

Source: This Rule is former Rule BU9.

Rule 16-610. Approval of Financial Institutions

a. Written Agreement to be Filed with Commission.

The Commission shall approve a financial institution upon the filing with the Commission of a written agreement with the Maryland Legal Services Corporation (MLSC), complying with this Rule and in a form provided by the Commission, applicable to all branches of the institution that are subject to this Rule. The Commission may extend its approval of a previously approved financial institution for a reasonable period to allow the financial institution and the MLSC the opportunity to enter into a revised agreement that complies with this Rule.

b. Contents of Agreement.

1. Duties to be Performed.

The agreement shall provide that the financial institution, as a condition of accepting the deposit of any funds into an attorney trust account, shall:

(A) Notify the attorney or law firm promptly of any overdraft in the account or the dishonor for insufficient funds of any instrument drawn on the account.

(B) Report the overdraft or dishonor to Bar Counsel as set forth in subsection b 1 (C) of this Rule.

(C) Use the following procedure for reports to Bar Counsel required under subsection b 1 (B) of this Rule:

(i) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the institution's other regular account holders. The report shall be mailed to Bar Counsel within the time provided by law for notice of dishonor to the depositor and simultaneously with the sending of that notice.

(ii) If an instrument is honored but at the time of presentation the total funds in the account, both collected and uncollected, do not equal or exceed the amount of the instrument, the report shall identify the financial institution, the name and address of the attorney or law firm maintaining the account, the account name, the account number, the date of presentation for payment, and the payment date of the instrument, as well as the amount of the overdraft

created. The report shall be mailed to Bar Counsel within five banking days after the date of presentation, notwithstanding any overdraft privileges that may attach to the account.

(D) Pay interest on its IOLTA accounts at a rate no less than the highest non-promotional interest rate generally available from the institution to its non-IOLTA customers at the same branch when the IOLTA account meets or exceeds the same minimum balance or other eligibility qualifications for its non-IOLTA accounts at that branch. In determining the highest interest rate generally available from the institution to its IOLTA customers at a particular branch, an approved institution may consider, in addition to the balance in the IOLTA account, factors customarily considered by the institution at that branch when setting interest rates for its non-IOLTA customers; provided, however, that these factors shall not discriminate between IOLTA accounts and non-IOLTA accounts, nor shall the factors include or consider the fact that the account is an IOLTA account.

(i) An approved institution may satisfy the requirement described in subsection b 1 (D) of this Rule by establishing the IOLTA account in an account paying the highest rate for which the IOLTA account qualifies. The approved institution may deduct from interest earned on the IOLTA account Allowable Reasonable Fees as defined in subsection b 1 (d)(iii). This account may be any one of the following product option types, assuming the particular financial institution offers these account types to its non-IOLTA customers, and the particular IOLTA account qualifies to be established as this type of account at the particular branch:

(a) a business checking account with an automated investment feature, which is an overnight sweep and investment in repurchase agreements fully collateralized by U.S. Government securities, including securities of government-sponsored entities;

(b) checking accounts paying interest rates in excess of the lowest-paying interest-bearing checking account;

(c) any other suitable interest-bearing checking account offered by the approved institution to its non-IOLTA customers.

(ii) In lieu of the options provided in subsection b 1 (D)(i), an approved financial institution may: (a) retain the existing IOLTA account and pay the equivalent applicable rate that would be paid at that branch on the highest-yield product for which the IOLTA account qualifies and deduct from interest earned on the IOLTA account Allowable Reasonable Fees; (b) offer a “safe harbor” rate that is equal to 55% of the Federal Funds Target Rate as reported in the Wall Street Journal on the first calendar day of the month on high-balance IOLTA accounts to satisfy the requirements described in subsection b 1 (D), but no fees may be deducted from the interest on a “safe harbor” rate account; or (c) pay a rate specified by the MLSC, if it chooses to specify a rate, which is agreed to by the financial institution and would be in effect for and remain unchanged during a period of twelve months from the agreement between the financial institution and MLSC to pay the specified rate. Allowable Reasonable Fees may be deducted from the interest on this “specified rate” account as agreed between MLSC and the financial institution.

(iii) “Allowable Reasonable Fees” means fees and service charges in amounts customarily charged to non-IOLTA customers with the same type of account and balance at the same branch, including per-check charges, per-deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, and sweep fees, plus a reasonable IOLTA account administrative fee. Allowable Reasonable Fees may be deducted from interest earned on an IOLTA account only in amounts and in accordance with the customary practices of the approved institution for non-IOLTA customers at the particular branch. Fees or service charges are not Allowable Reasonable Fees if they are charged for the convenience of or arise due to errors or omissions by the attorney or law firm maintaining the IOLTA account or that attorney's or law firm's clients, including fees for wire transfers, certified checks, account reconciliation services, presentations against insufficient funds, overdrafts, or deposits of dishonored items.

(iv) Nothing in this Rule shall preclude an approved institution from paying a higher interest rate than described herein or electing to waive any fees and service charges on an IOLTA account.

(v) Fees that are not Allowable Reasonable Fees are the responsibility of, and may be charged to, the attorney or law firm maintaining the IOLTA account.

Cross reference: Rule 16-607 b 1.

(E) Allow reasonable access to all records of an attorney trust account if an audit of the account is ordered pursuant to Rule 16-722 (Audit of Attorney Accounts and Records).

2. Service Charges for Performing Duties Under Agreement.

Nothing in the agreement shall preclude an approved financial institution from charging the attorney or law firm maintaining an attorney trust account (1) a reasonable fee for providing any notice or record pursuant to the agreement or (2) fees and service charges other than the “Allowable Reasonable Fees” listed in subsection b 1 (D)(iii) of this Rule.

c. Termination of Agreement.

The agreement shall terminate only if:

1. the financial institution files a petition under any applicable insolvency law or makes an assignment for the benefit of creditors; or
2. the financial institution gives thirty days' notice in writing to the MLSC and to Bar Counsel that the institution intends to terminate the agreement and its status as an approved financial institution on a stated date and that copies of the termination notice have been mailed to all attorneys and law firms that maintain trust accounts with any branch of that institution; or
3. after a complaint is filed by the MLSC or on its own initiative, the Commission finds, after prior written notice to the institution and adequate opportunity to be heard, that the institution has failed or refused without justification to perform a duty required by the agreement. The Commission shall notify the institution that the agreement and the Commission's approval of the institution are terminated.

d. Exceptions

Within 15 days after service of the notice of termination pursuant to subsection c 3 of this Rule, the institution may file with the Court of Appeals exceptions to the decision of the Commission. The institution shall file eight copies of the exceptions which shall conform to the requirements of Rule 8-112. The Court shall set a date for oral argument, unless oral argument is waived by the parties. Oral argument shall be conducted in accordance with Rule 8-522. The decision of the Court of Appeals is final and shall be evidenced by an order of the Court.

Source: This Rule is derived from former Rule BU10.

Rule 16-611. Notice of approved institutions.

The Commission shall cause to be published in the Maryland Register, at six- month intervals, a list that identifies:

1. All currently approved financial institutions; and
2. Any financial institution whose agreement has terminated since the previous list was published. (Adopted effective January 1, 1997, amended effective January 1, 1997.)

Source: This Rule is former Rule BU11.

Rule 16-612. Enforcement.

Upon receipt of a report of overdraft on or dishonored instrument drawn on an attorney trust account, Bar Counsel shall contact the attorney or law firm maintaining the account and request an informal explanation for the overdraft or dishonored instrument. The attorney or law firm shall provide any records of the account necessary to support the explanation. If Bar Counsel has requested but has failed to receive a satisfactory explanation for any overdraft or dishonored check, or if good cause exists to believe that an attorney or law firm has failed to perform any duty under these Rules, Bar Counsel may secure compliance with these Rules by appropriate means approved by the Commission, including application for an audit pursuant to Rule 16-718 (Audit of Attorney's Accounts and Records). (Adopted effective January 1, 1997.)

Source: This Rule is former Rule BU12.

Maryland Legal Services Corporation

Charles Towers
Suite 102
15 Charles Plaza
Baltimore, Maryland 21201
(410) 576-9494
Toll Free (800) 492-1340
www.mlsc.org

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