

Interest on Lawyer Account Fund of the State of New York

Funding civil legal assistance for low-income New Yorkers since 1984

Dear Banker:

Thank you for your interest in the IOLA program. If your financial institution wishes to become a participant in the IOLA program, you must submit the following forms and information. This information is necessary for our records and comprises your Application Package:

1. **A letter from an authorized representative of your financial institution** indicating that you wish to become a participant in the IOLA program. A letter of participation received by the IOLA Fund is considered to be an agreement that all branches of your financial institution in New York State will open and administer IOLA accounts in accordance with the laws and regulations governing IOLA accounts.
2. A completed **Similar Account Interest Rate Compliance Report** (attached).
Effective August 15, 2007, IOLA's regulations were amended to provide detailed guidance as to how banks must comply with IOLA's statutory requirement that the interest paid on an IOLA account by a bank shall be not less than the rate paid on similar accounts at that bank.
Prior to your acceptance as a participant, you must demonstrate compliance with Section 7000.9 of the Trustees' Regulations. Complete and submit a **Similar Account Interest Rate Compliance Report** with your application package, making sure to include a current rate sheet. The Fund will determine whether your proposal complies with the regulations; if it does not, we will contact you and explain how to select a rate that is in compliance. If you have questions about this requirement, please contact the Bank Liaison at the Fund.
3. A completed **IOLA Participating Bank Contact Information** sheet (attached).
4. A completed **IOLA Account Rate and Fee Information** sheet (attached).
5. A copy of the **Agreement to Provide Dishonored Check Reports** (attached), the original of which must be sent to the Lawyer's Fund for Client Protection.
Participating banks are required to report all instances of bounced checks on escrow accounts to The Lawyers' Fund for Client Protection. Before you can offer IOLA accounts, you must execute an **Agreement to Provide Dishonored Check Reports**. This form, along with the pertinent sections of State Law, is attached. It must be completed and forwarded to The Lawyers' Fund for Client Protection. Please include a copy in the package you send to IOLA.

Once the letter and all required forms are received – and approved – by the Fund, you will be a registered participant in the IOLA program and can begin establishing IOLA accounts for your attorney customers.

Please contact us if you have any questions.

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Assistant Director &
Director of Administration

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Bank Liaison &
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IOLA

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Similar Account Interest Rate Compliance Report

I. Declaration of the Financial Institution

Upon reviewing the Trustees' Regulations of the Interest on Lawyer Account Fund (available at <http://www.iola.org>) the bank shall:

- A. Adjust the interest rate paid on IOLA accounts to equal the rate paid on the following account product: _____ at an interest rate of: _____.
- B. Convert existing IOLA accounts to a new or existing product type, entitled: _____ at an interest rate of: _____.
- C. Pay a variable interest rate on IOLA accounts of **60% of the Federal Funds Target Rate** as described in the Regulations.
- D. Continue to pay _____ % which is the same rate as our _____ account which is the highest yielding similar account that our institution offers.
- E. Other (please describe): _____.

The **effective date** of the above: _____.

II. Documentation Requirement

Please attach substantiating documentation, including **interest rates for all bank account products**, descriptions of all such account products, and any analysis or explanation in support of Part I., above.

III. Reporting Institution

Name of financial institution: _____

Name of person executing this form: _____

Title: _____

Address: _____

Telephone: _____

I certify that the above statements are true and accurate.

Signature: _____

Date: _____

Please complete and mail this report to the IOLA Fund at the address shown above.

EXCERPT FROM:
New York Codes, Rules and Regulations
TITLE 21. MISCELLANEOUS
CHAPTER LXIX. INTEREST ON LAWYER ACCOUNT FUND
PART 7000. TRUSTEES' REGULATIONS AND PROCEDURES

Section 7000.9 Interest and dividends.

- (a) To be considered presumptively eligible for the deposit of IOLA funds, an IOLA account shall pay an interest or dividend rate on IOLA accounts which is not less than the highest rate available among the following types of accounts, as paid by the banking institution to its best customers on accounts maintained at that institution which are determined to be similar to its IOLA accounts:
- (1) A money market account with or tied to check writing capability;**
 - (2) A government (such as for municipal deposits) checking account;**
 - (3) An open-end money market fund investment offered through the banking institution that is (i) tied to check writing capability at the institution, (ii) and which fund is solely invested in, or fully collateralized by, U.S. Government securities and (iii) has total assets of at least \$250,000,000; or**
 - (4) Any other interest- or dividend-paying product with or tied to check-writing capability at the institution.**
- (b) As alternatives to the foregoing, the institution requesting designation by the trustees of an account as eligible to accept the deposit of IOLA funds may offer:
- (1) The greater of 60% of the Federal Funds Target Rate or 1% paid on an interest-bearing checking account; or**
 - (2) A yield specified by the IOLA fund, if it so chooses, which is agreed to by the financial institution and would be in effect for a period to be mutually agreed upon.**
- (c) The following additional provisions are applicable. As indicated by their terms, some apply only to one or some of the options set forth above.
- (1) The Federal Funds Target Rate referenced in paragraph (1) of subdivision (b) shall be calculated as of the first day of each month.**
 - (2) A bank may elect to offer the highest rates that it pays on government or high-yield money market accounts on another qualifying IOLA checking account, instead of actually offering such account.**
 - (3) Institutions may elect to pay a higher interest or dividend rate than provided for in this section.**
 - (4) All participating financial institutions shall report, in the form and manner prescribed by the IOLA fund, on the best rate paid to their best customers for each of the types of accounts they offer within the definitions specified in paragraphs (1) through (4) of subdivision (a) above. To enable attorneys and law firms to open and maintain an IOLA account, an eligible banking institution shall, within 60 days of the effective date of these regulations and as requested thereafter, provide to the IOLA board information that demonstrates compliance with the provisions of this section.**
 - (5) Where there is reasonable cause to believe a financial institution is willfully misrepresenting its best rate information, the IOLA fund may condition continued approval status on a finding by the institution's auditor that its certifications have been accurate.**
- (d) The IOLA Board shall periodically monitor the effectiveness of this standard.

IOLA Participating Bank Contact Information

Bank Name:	
Effective date of participation:	

POLICY CONTACT

This contact should be the person ultimately responsible for IOLA accounts; all correspondence from the fund will be sent to this contact. They should be able to address issues affecting the bank's compliance, including interest rates and fees.

Policy contact name	
Policy contact title	
Policy contact address	
Policy contact city/state/zip	
Policy contact phone	
Policy contact fax	
Policy contact email	

REMITTANCE CONTACT

This contact should be the person responsible for monthly IOLA remittance and reporting. Most routine calls will be directed to this contact.

Remit contact name	
Remit contact title	
Remit contact phone	
Remit contact fax	
Remit contact email	

IOLA Account Rate and Fee Information

How often does your institution pay interest?		Monthly	Quarterly
How often will your institution remit interest to the Fund?		Monthly	Quarterly
If your financial institution pays interest monthly , but remits quarterly , a separate interest bearing account must be established for the IOLA Fund to act as a holding account for the interest earned. If applicable, provide that account number here:		holding account #:	
Will W-9 forms will be submitted to the Fund for certification?		No	Yes
What is the interest rate on your IOLA accounts? If the rates are tiered, list all tiers below:		%	
TIER	FROM	TO	RATE PAID ON TIER
1	\$	\$	%
2	\$	\$	%
3	\$	\$	%
4	\$	\$	%
5	\$	\$	%
6	\$	\$	%
Please list the amount of any fees charged on IOLA accounts.			
	Handling Fee:	Monthly	Quarterly
	Maintenance Fee:	Monthly	Quarterly
	per check paid:		
	per check:		
	per check deposited:		
Please list any other charges below. Attach another sheet if necessary.			
		\$	
		\$	
		\$	
Are there any minimum balance requirements?		YES	NO
	Minimum to open account:	\$	
	Minimum to earn interest:	\$	
	Minimum to waive charges:	\$	
How do you calculate interest on IOLA accounts? Check one:			
<input type="checkbox"/>	Average daily balance	<input type="checkbox"/> Other (please describe):	
<input type="checkbox"/>	Average monthly balance		
<input type="checkbox"/>	Monthly fixed date		
<input type="checkbox"/>	Highest Monthly balance		

Agreement to Provide Dishonored Check Reports

Pursuant to 22 NYCRR, Parts 1200.46 § [b](1)(2) and 1300.01

BANKING INSTITUTION: _____

ADDRESS: _____

CONTACT PERSON: _____ **TELEPHONE:** _____

WHEREAS, attorneys and law firms in the State of New York are required to maintain their segregated bank accounts only in banking institutions that agree to provide dishonored check reports to the New York State **Lawyers' Fund for Client Protection** (hereinafter the "**Lawyers' Fund**"); and

WHEREAS, attorneys and law firms are required to designate these accounts as either **Attorney Special Account**, or **Attorney Trust Account**, or **Attorney Escrow Account**; and

WHEREAS, court rules provide that attorneys and law firms in the State of New York are deemed to have consented to these requirements with respect to attorney special, trust, or escrow accounts;

NOW, Therefore, the Lawyers' Fund and the Banking Institution agree as follows:

The Lawyers' Fund approves the Banking Institution as a depository for attorney special, trust or escrow accounts in the State of New York.

The Banking Institution will provide the Lawyers' Fund with a dishonored check report (hereinafter "**Report**") whenever a properly payable instrument is presented against an attorney special, trust, or escrow account which contains insufficient available funds, and the Banking institution dishonors the instrument for that reason. Such Report shall be substantially in the form of the notice of dishonor that the Banking Institution customarily provides to its customers, and may include a photocopy or a computer-generated duplicate of such notice.

Such Report shall be mailed, within five banking days after the date of presentment against insufficient funds, to: **The Lawyers' Fund for Client Protection, 119 Washington Street, Albany, NY 12210**

Such Report may be withdrawn by the Banking Institution within 10 days after mailing if the report was provided to the Lawyers' Fund by inadvertence or mistake; provided, however, that curing of an insufficiency of available funds by an attorney or law firm by the deposit of additional funds shall not constitute reason for withdrawing a Report.

This agreement applies to all branches of the Banking Institution that provide attorney special, trust, or escrow accounts for attorneys engaged in the practice of law in the State of New York.

This agreement shall not be canceled except on 30 days prior written notice.

Applicable court rules are attached.

Dated: _____

By: _____
Authorized Signature

Title

Please return to
The Lawyers' Fund for Client Protection
119 Washington Street, Albany, New York 12210
Telephone: (518) 434-1935 or 1-800-442-3863

Excerpts from 22 N.Y.C.R.R. Part 1200
Rules of Professional Conduct
[As amended, effective April 1, 2009]

RULE 1.15:

Preserving Identity of Funds and Property of Others; Fiduciary Responsibility; Commingling and Misappropriation of Client Funds or Property; Maintenance of Bank Accounts; Record Keeping; Examination of Records

(a) ...

(b) Separate Accounts.

- (1) A lawyer who is in possession of funds belonging to another person incident to the lawyer's practice of law shall maintain such funds in a banking institution within New York State that agrees to provide dishonored check reports in accordance with the provisions of 22 N.Y.C.R.R. Part 1300. "Banking institution" means a state or national bank, trust company, savings bank, savings and loan association or credit union. Such funds shall be maintained, in the lawyer's own name, or in the name of a firm of lawyers of which the lawyer is a member, or in the name of the lawyer or firm of lawyers by whom the lawyer is employed, in a special account or accounts, separate from any business or personal accounts of the lawyer or lawyer's firm, and separate from any accounts that the lawyer may maintain as executor, guardian, trustee or receiver, or in any other fiduciary capacity; into such special account or accounts all funds held in escrow or otherwise entrusted to the lawyer or firm shall be deposited; provided, however, that such funds may be maintained in a banking institution located outside New York State if such banking institution complies with 22 N.Y.C.R.R. Part 1300 and the lawyer has obtained the prior written approval of the person to whom such funds belong specifying the name and address of the office or branch of the banking institution where such funds are to be maintained.
- (2) A lawyer or the lawyer's firm shall identify the special bank account or accounts required by Rule 1.15(b)(1) as an "Attorney Special Account," "Attorney Trust Account," or "Attorney Escrow Account," and shall obtain checks and deposit slips that bear such title. Such title may be accompanied by such other descriptive language as the lawyer may deem appropriate, provided that such additional language distinguishes such special account or accounts from other bank accounts that are maintained by the lawyer or the lawyer's firm.
- (3) Funds reasonably sufficient to maintain the account or to pay account charges may be deposited therein.

(f) Missing Clients.

Whenever any sum of money is payable to a client and the lawyer is unable to locate the client, the lawyer shall apply to the court in which the action was brought if in the unified court system, or, if no action was commenced in the unified court system, to the Supreme Court in the county in which the lawyer maintains an office for the practice of law, for an order directing payment to the lawyer of any fees and disbursements that are owed by the client and the balance, if any, to the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

(g) Designation of Successor Signatories.

- (1) Upon the death of a lawyer who was the sole signatory on an attorney trust, escrow or special account, an application may be made to the Supreme Court for an order designating a successor signatory for such trust, escrow or special account, who shall be a member of the bar in good standing and admitted to the practice of law in New York State.
- (2) An application to designate a successor signatory shall be made to the Supreme Court in the judicial district in which the deceased lawyer maintained an office for the practice of law. The application may be made by the legal representative of the deceased lawyer's estate; a lawyer who was affiliated with the deceased lawyer in the practice of law; any person who has a beneficial interest in such trust, escrow or special account; an officer of a city or county bar association; or counsel for an attorney disciplinary committee. No lawyer may charge a legal fee for assisting with an application to designate a successor signatory pursuant to this Rule.
- (3) The Supreme Court may designate a successor signatory and may direct the safeguarding of funds from such trust, escrow or special account, and the disbursement of such funds to persons who are entitled thereto, and may order that funds in such account be deposited with the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

Dishonored Check Reporting Rule

Banks in New York State which offer fiduciary accounts to attorneys are required to report all instances of bounced checks on attorney trust, special and escrow accounts.

The reports are forwarded to the **New York Lawyers' Fund for Client Protection**, which serves as a statewide clearing house for these reports.

Banks have 10 days to withdraw reports that have been issued in error. If not withdrawn, the reports are sent to the appropriate Attorney Grievance Committee for investigation.

A bounced-check report generally triggers an audit of the attorney's trust, special or escrow account.

The Appellate Divisions' uniform court rule is reported at 22 NYCRR Part 1300.1.

NY Codes, Rules, and Regulations, Part 1300

Dishonored Check Reporting Rules for Attorney Special, Trust and Escrow Accounts

22 NYCRR 1300.1 Dishonored check reports.

- A.** Special bank accounts required by Disciplinary Rule 9-102 (22 NYCRR 1200.46) shall be maintained only in banking institutions which have agreed to provide dishonored check reports in accordance with the provisions of this section.
- B.** An agreement to provide dishonored check reports shall be filed with the Lawyers' Fund for Client Protection, which shall maintain a central registry of all banking institutions which have been approved in accordance with this section, and the current status of each such agreement. The agreement shall apply to all branches of each banking institution that provides special bank accounts for attorneys engaged in the practice of law in this State, and shall not be cancelled by a banking institution except on 30 days' prior written notice to the Lawyers' Fund for Client Protection.
- C.** A dishonored check report by a banking institution shall be required whenever a properly payable instrument is presented against an attorney special, trust or escrow account which contains insufficient available funds, and the banking institution dishonors the instrument for that reason. A properly payable instrument means an instrument which, if presented in the normal course of business, is in a form requiring payment under the laws of the State of New York.
- D.** A dishonored check report shall be substantially in the form of the notice of dishonor which the banking institution customarily forwards to its customer, and may include a photocopy or a computer-generated duplicate of such notice.
- E.** Dishonored check reports shall be mailed to the Lawyers' Fund for Client Protection, 119 Washington Avenue, Albany, NY 12210, within five banking days after the date of presentment against insufficient available funds.
- F.** The Lawyers' Fund for Client Protection shall hold each dishonored check report for 10 business days to enable the banking institution to withdraw a report provided by inadvertence or mistake; except that the curing of an insufficiency of available funds by a lawyer or law firm by the deposit of additional funds shall not constitute reason for withdrawing a dishonored check report.
- G.** After holding the dishonored check report for 10 business days, the Lawyers' Fund for Client Protection shall forward it to the attorney disciplinary committee for the judicial department or district having jurisdiction over the account holder, as indicated by the law office or other address on the report, for such inquiry and action that attorney disciplinary committee deems appropriate.
- H.** Every lawyer admitted to the Bar of the State of New York shall be deemed to have consented to the dishonored check reporting requirements of this section. Lawyers and law firms shall promptly notify their banking institutions of existing or new attorney special, trust, or escrow accounts for the purpose of facilitating the implementation and administration of the provisions of this section.

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