

INSURANCE REQUIREMENTS FOR IOLTAS

As of July 1, 2016, the insurance requirements relating to lawyer trust and fiduciary accounts are described in SCR 20:1.15(b)(5) and require funds to be held in financial institutions that have insurance coverage for which each owner's funds are eligible. That rule, and the Comment to the rule state as follows:

(b) Segregation and safekeeping of trust property.

(5) Insurance and safekeeping requirements. Each trust account shall be maintained at a financial institution that is insured by the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Share Insurance Fund (NCUSIF), the Securities Investor Protection Corporation (SIPC), or any other investment institution financial guaranty insurance. IOLTA accounts shall also comply with the requirements of sub. (d)(3). Lawyers using the alternative to the E-Banking Trust Account shall comply with the requirements of sub. (f)(3)c. Except as provided in subs. (b)(4)¹ and (d)(3)b. and c.², trust property shall be held in an account in which each individual owner's funds are eligible for insurance.

Comment

SCR 20:1.15(b)(5) Insurance and safekeeping requirements.

Pursuant to SCR 20:1.15(b)(5), trust accounts are required to be held in financial or IOLTA participating institutions that are insured by the FDIC, the NCUSIF, the SIPC or any other investment institution financial guaranty insurance. However, since federal law dictates the amount of insurance coverage available from the FDIC, the NCUSIF, and the SIPC, funds in excess of those limits are not insured. Federal law also limits the types of losses that are covered by SIPC insurance. Consequently, the purpose of the insurance and safety requirements is not to guarantee that all funds are adequately insured. Rather, it is to assure that trust funds are held in reputable financial or IOLTA participating institutions and that the funds are eligible for the insurance that is available. The exceptions to the SCR 20:1.15(b)(5) requirement relate to trust property other than funds and to IOLTA accounts that are subject to the safety requirements of SCR 20:1.15(d)(3)b. and c.:

¹ SCR 20:1.15(b)(4) relates to trust property other than funds, for example, property that could be held in a safe deposit box.

² SCR 20:1.15(d)(3)b. and c. relate to IOLTA accounts that are subject to certain safety requirements rather than insurance requirements.