

CREDIT CARD TRUST ACCOUNTS (AND HOW THEY WORK)

SCR 20:1.15(e) Operational requirements for trust accounts.

(4) Prohibited Transactions

h. Exception: Fee and cost advances by credit card, debit card or other electronic deposit. A lawyer may establish a trust account, separate from the lawyer's IOLTA account for the purpose of receiving legal fees and costs by credit card, debit card or other electronic deposit, provided that the lawyer complies with all of the following:

1. the separate trust account shall be entitled: "Credit Card Trust Account";
2. lawyer or law firm funds, reasonably sufficient to cover all monthly account fees and charges and, if necessary, any deductions by the financial institution or card issuer from a client's payment by credit card, debit card, or other electronic deposit, shall be maintained in the credit card trust account, and a ledger for account fees and charges shall be maintained;
3. each payment of legal fees or costs by credit card, debit card or other electronic deposit, including, if necessary, a reimbursement by the lawyer or law firm for any deduction by the financial institution or card issuer from the gross amount of each payment, shall be transferred from the credit card trust account to the IOLTA account immediately upon becoming available for disbursement subject to the following requirements:
 - a. All advanced costs and advanced fees held in trust under sub. (b)(4) shall be transferred by check to the IOLTA account.
 - b. Earned fees, cost reimbursements, and advanced fees that are subject to the requirements of sub. (b)(4m) shall be transferred by check to the business account.
4. within 3 business days of receiving actual notice that a chargeback or surcharge has been made against the credit card trust account, the lawyer shall replace any and all funds that have been withdrawn from the credit card trust account by the financial institution or card issuer; and shall reimburse the account for any shortfall or negative balance caused by a chargeback or surcharge. The lawyer shall not accept new payments to the credit card trust account until the lawyer has reimbursed the credit card trust account for the chargeback or surcharge.

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| 1 | A Credit Card Trust Account must be an IOLTA account, even if little or no income will be generated. | An IOLTA Agreement must be filed with WisTAF.

An Overdraft Notification Agreement must be filed with OLR, along with a voided Credit Card Trust Account check. | Checks must be ordered for disbursements from the account in order to identify the source of each credit card payment. |
| 2 | Client pays fees and costs with a credit card, debit card, PayPal, EFT (electronic fund transfer), etc. and Card Processor deposits payment into Credit Card Trust Account. | FEES: Both advanced fees and earned fees can be paid to a Credit Card Trust Account. | COSTS: Both cost advances and cost reimbursements can be paid to a Credit Card Trust Account and disbursed with a check that identifies the client on the memo line. |
| 3 | Payment clears Credit Card Trust Account | Check availability with your bank and/or the bank's fund availability policies. | |
| 4 | Lawyer disburses fees and costs from the Credit Card Trust Account by check, identifying the client on the memo line. | Advanced fees <u>must</u> be transferred (by check) to either the standard IOLTA or the business account, depending upon the lawyer's election to proceed under SCR 20:1,15(b)(4) [<i>Deposit in trust account</i>] or (b)(4m) [<i>Deposit in business account</i>].

Earned fees <u>must</u> be transferred (by check) to the business account. | Cost advances <u>must</u> be transferred (by check) and deposited to the standard IOLTA. Such advances can only be disbursed as costs are incurred.

Cost reimbursements <u>must</u> be transferred (by check) to the business account. |
| 5 | Lawyer records deposits and disbursements. | A Transaction Register must be maintained for both the Credit Card Trust Account and the standard IOLTA Trust Account. | Client Ledgers must be maintained for both the Credit Card Trust Account and the standard IOLTA Trust Account. |