

Supreme Court orders corrections to its prior order regarding trust account rule

On December 7, 2016, the Wisconsin Supreme Court ordered a number of corrections to its April 4, 2016 order recreating SCR 20:1.15 – **Safekeeping property; trust accounts and fiduciary accounts**. [In the matter of corrections to Supreme Court Order 14-07](#).

The corrections to [SCR 20:1.15](#), effective July 1, 2016, include:

- The addition of record keeping requirements to SCR 20:1.15(f)(3)c. [the alternative to an E-Banking Trust Account], including the requirement to record electronic transactions in the financial institution's electronic payment system;
- Clarification that the "crime policy" referred to in SCR 20:1.15(f)(3)c.2. is an insurance policy;
- Restoring the terms "certify," "certificate," and "certification" to SCR 20:1.15(i) for consistency with Wis. Stats. § 757.293(3);
- Addition of a separate, non-pooled fiduciary account to SCR 20:1.15(k)(3), and the renumbering of pre-existing sections of that rule as subs. b. through f.;
- Clarification that the term "transaction costs" in SCR 20:1.15(k)(3)b. and c. refers to "taxes and expenses" of a fiduciary entity;
- Addition of a requirement to back up electronic records of a fiduciary account for consistency with the SCR 20:1.15(g)(1) requirement to back up electronic records of trust accounts;
- Addition of the word "account" following the word IOLTA in the Comments to SCR 20:1.15(f)(3)a. and c.;
- Changing "Standard" of proof to "Burden" of proof in the captions of SCR 20:1.15(e)(4), (g)(3) and (k)(9) as well as the Comments to those rules for consistency with SCR 22.39;
- Addition of the word "satisfactory" to the burden of proof in SCR 20:1.15(e)(4), (g)(3), and (k)(9), thereby changing "clear and convincing evidence" to "clear, satisfactory, and convincing evidence;" and
- A grammatical change to the definition of trust property in SCR 20:1.15(a)(12);

The Court further ordered that these corrections shall apply to conduct occurring after the effective date of Supreme Court Order 14-07. The effective date is July 1, 2016.