


OVERDRAFT REPORTING

Overdraft reporting on lawyer trust and fiduciary accounts is a method of monitoring compliance with trust account rules and potentially preventing future conversions caused by poor record keeping or theft. It has been required in Wisconsin since January 1, 1999. The overdraft rules relating to trust accounts are found in [SCR 20:1.15\(h\)](#)  and the rules relating to fiduciary accounts are found in [SCR 20:1.15\(k\)\(10\)](#). Pursuant to SCR 20:1.15(h)(2), whenever a check or electronic transaction is presented against a lawyer's trust account or fiduciary account that has insufficient funds to cover that check or electronic transaction, the financial institution must report the overdraft to OLR, regardless of whether the check or electronic transaction is honored.

Wisconsin lawyers must authorize their financial institutions, by written Agreement, to notify the Office of Lawyer Regulation of overdrafts on trust and fiduciary accounts from which they or a member or employee of their firm can disburse funds via check or electronic transaction. Overdrafts must be reported to OLR, regardless of whether the financial institution pays the check or electronic transaction or returns it due to insufficient funds.

Solely with respect to fiduciary accounts, SCR 20:1.15(k)(10) provides five alternatives to complying with the overdraft reporting requirements of SCR 20:1.15(h). **CAUTION:** The following alternatives for fiduciary accounts do not apply to trust accounts:

- 1) an annual audit of the fiduciary account by an independent CPA;
- 2) the approval of all disbursements by a co-trustee, co-agent, co-guardian or co-personal representative;
- 3) the documented approval of two people from the law firm, including the lawyer and a member or employee of the firm prior to any disbursement;
- 4) an annual accounting of the administration of an estate or trust to all income-eligible beneficiaries; and
- 5) the timely filing of annual financial accountings with the court in a guardianship proceeding.