

Louisiana Bar Foundation
Proposed Regulations
Governing Rate Comparability Implementation and Compliance

1. Notification to Banks

- A. The LBF shall notify in writing all existing, participating banks in the IOLTA program and the Louisiana Bankers Association of the changes to Rule 1.15 and the IOLTA rules.
- B. Through in-person meetings and other communication, the LBF will provide an agreement form, to be approved by the Court and a copy provided to ODC, for the bank to complete reflecting:
 - i. its continuation in the IOLTA program and that it will
 - a. simply adjust the current interest rate paid on IOLTA accounts to the “safe harbor” target rate of not less than 60% of the federal fund rate;
 - b. convert the IOLTA/”NOW” account into existing on demand deposit products currently offered to all other customers paying comparable rates and charging comparable fees (to be subtracted from the interest earned on each account); or
 - ii. opt-out of the IOLTA program as a participating bank.
- C. The LBF will forward an agreement form to every currently participating bank in the IOLTA program prior to the effective date of the proposed rule.
- D. Should a bank select to “opt-out” of the IOLTA program, which is currently an option, the LBF shall provide the names of any such banking institution and a list of affected existing IOLTA account holders to the Louisiana Supreme Court and the ODC. Additionally, the LBF shall work with all affected account holders to transfer IOLTA accounts to a participating IOLTA program bank.
- E. A list of eligible banks shall be maintained by the LBF and provided to the LSBA, LA Supreme Court and ODC. The list shall be available on the LBF and ODC websites. Additionally, the LBF shall maintain a “Bank” sub-section within the “IOLTA” section on its website providing all resource documents for participation in the IOLTA program.

- F. Should a financial institution establish the IOLTA account as option (g)(3)(A)(3) or (g)(3)(A)(4) of Rule 1.15, the LBF shall require the financial institution to fully collateralize the deposit via third party custodial agreement.

2. **Notification to Attorneys**

- A. The LBF shall provide written and electronic notification (through the LSBA media) to all attorneys advising of the rule change.
- B. The LBF will communicate that no action should be taken by an attorney regarding their IOLTA account unless specifically notified by the LBF, following the rule effective date, that their bank is no longer an eligible, participating bank in the IOLTA program. Unless otherwise noted, all banks will continue with a presumptive eligible status through the implementation period unless an executed agreement is received by the LBF reflecting the “opt out” status has been selected.
- C. A list of eligible banks shall be maintained by the LBF in accord with the provisions of Rule 1.15. and provided to the LSBA, LA Supreme Court and ODC. The list shall be available on the LBF and ODC websites. Additionally, the LBF shall maintain an “Attorney” subsection within the “IOLTA” section on its website providing all resource documents for participation in the IOLTA program.

Following the effective date, the LBF will continue to monitor each bank’s participation will be monitored through participation through (1) remittance reports (as required in current rule) submitted by each participating bank and (2) quarterly reports provided by a private consumer company reflecting banks’ interest rates paid on other comparable deposit accounts by participating banks. Should a bank fail to meet the safe harbor (60% of federal fund target rate) or fall below comparable rates paid on similar, customers’ accounts, the LBF will take the following action:

1. A letter will be sent notifying the bank, with a copy to the ODC, requiring compliance within a 30 day period.
2. Should no response or action be taken by the bank to bring the IOLTA account(s) into compliance with the rule, the LBF shall request a meeting with the bank president or IOLTA account officer to discuss non-compliance matters to take place within an additional 30 days (this period shall begin following the original 30-day period described above).
3. If the bank remains out of compliance for an additional 30 days following the meeting and designated period, then a bank remaining

out of compliance for 90 days will be removed from the list of banks participating in the IOLTA Program.

4. The LBF will submit a report of all banks removed from the list of participating banks, reflecting the number of days and notification status to the ODC and the La Supreme Court.

5. An updated list reflecting the addition or removal of a participating bank will be submitted to the LSBA, ODC and La Supreme Court.

6. If an existing IOLTA Bank is removed from the eligible bank list, then the LBF shall promptly notify any affected existing IOLTA account holders of the names of one or more eligible banks that are in the vicinity of the removed bank so as to allow the opening of replacement IOLTA accounts. No lawyer shall be deemed to be in violation of the amended Rule so long as the attorney is working with the LBF to locate a replacement eligible bank.