

Changing Financial Institutions - IOLTA Toolkit

This toolkit is intended to provide a high level roadmap for law firms that are looking to change the financial institution that they use to hold their Pennsylvania IOLTA account. Additional operational and ethical considerations beyond those covered in this toolkit can and do come up, so it is a good idea to also consult with the practice management resources provided by the Pennsylvania Bar Association.

I. Helpful Considerations When Searching for a New Financial Institution	
Eligible Financial Institution	
	Is the potential new bank or credit union on the list of eligible financial institutions approved to hold Pennsylvania IOLTA accounts? <i>Note: this list is available on the IOLTA Board's website, paiolta.org, and is also published at 204 Pa. Code § 91.173, Appendix A.</i>
	What is the interest rate offered on the IOLTA account? <i>Note: interest earned on IOLTA accounts is directed to the IOLTA Board to pay for civil legal aid in Pennsylvania. Financial institutions that participate in the IOLTA Board's optional "Platinum Leader Bank" program provide a premium rate that is indexed to the Federal Funds Target Rate which results in far more interest available for civil legal aid in Pennsylvania. For example, in January 2023, IOLTA accounts at Platinum Leader Banks earned at least 2.81% as opposed to accounts by non-Platinum Leader banks typically playing closer to 0.16%. The list of Platinum Leader Banks is available on the IOLTA Board's website, paiolta.org.</i>
Fraud Protection Tools	
	Is "Positive Pay" available to protect against check fraud? <i>Positive Pay is a common term for a service whereby a bank will only honor checks written on an account if the check in question is matched to one on a list previously provided to the bank by their customer so that the bank can verify that the check is authentic by comparing the payee, date, check number, dollar amount, etc.</i>
	Is ACH debit filtering available? <i>ACH debit filtering is a common term for a banking service that allows a customer to ensure that only those electronic ACH payments that the customer authorized are permitted to post to the customer's account.</i>
Service Fees	
	Obtain a list of fees charged for common operational tasks and services such as wire transfers, certified checks, stopped payments, positive pay protection, ACH debit filtering, etc.
	Does the financial institution permit any service fees incurred against the IOLTA account to be automatically assessed against the law firm's operating account at the financial institution or will the law firm need to reimburse the IOLTA account to pay any service fees? <i>Note: while attorneys are permitted to place some of their own funds into an IOLTA account to pay a service charge per Pa. R.P.C. 1.15(h), it must only be in the amount needed to satisfy the service charge.</i>
II. Winding-down the Old IOLTA Account	
Outstanding Checks	
	Before moving funds from the old IOLTA account to the new IOLTA account, ensure that there are no outstanding checks written on the old account that could bounce. <i>Note: there is no limit on the number of IOLTA accounts that a law firm can use at any given time, so you can keep the old account open for a period of time as you transition funds into the new account should that be helpful.</i>

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Historical Documentation	
	Does the firm have all the transaction records provided to the lawyer by the financial institution for the old IOLTA account, such as periodic statements, canceled checks, deposited items, records of electronic transactions, etc.? See Pa. R.P.C. 1.15(c).
Closing the Old IOLTA Account	
	Once all funds in the old IOLTA account have been transferred to the new IOLTA account, the old account can be closed by the law firm. Note: it may be advisable to use a certified check or wire transfer to move the funds into the new account if you are moving a large amount of funds at once and will need to write checks quickly from the new IOLTA account. The financial institution will notify the IOLTA Board of the old account's date of closure electronically in their monthly IOLTA remittance report (no notice needs to be provided to the IOLTA Board). Any attorneys that utilized the old account in their practice will need to ensure that it remains on their next annual attorney registration financial disclosure due to the lookback period in Pa. R.D.E. 219.
III. Opening the New IOLTA Account	
Account Titling	
	The account title for the new account should contain the name of the law firm and the phrase "IOLTA Trust Account" or "IOLTA Escrow Account". Note: if there are spacing constraints with the length of the account title that can be used, the name of the firm can be abbreviated but the acronym "IOLTA" must be included. It is not required, but it is advisable to include the state abbreviation 'PA' in the account title if the account will be held at a large, nationally chartered bank.
Account Signers	
	There must be at least one Pennsylvania-licensed attorney with signing authority on the account. Note: per Pa. R.P.C. 1.15(g), a non-attorney, or non-Pennsylvania licensed attorney can be signer on a Pennsylvania IOLTA account provided that they are under the direct supervision of a Pennsylvania-licensed attorney.
	If the law firm opening the new account is a solo practice, consider whether arrangements have been made to designate another attorney as a practice successor that can access the IOLTA account in the event of the solo attorney's incapacity, illness, or death so that this burden does not fall on non-attorney family members. <u>Please refer to the Pennsylvania Bar Association's Succession Planning Resource compiled by Ellen Freedman, CLM which is available to members of the PBA.</u>
IOLTA Enrollment Form	
	Has the new IOLTA account enrollment form been provided to the IOLTA Board? Note: this form requires a supervising attorney's signature and can be sent to the IOLTA Board by either the law firm or the bank (via e-mail to paiolta@pacourts.us or by fax to 717-238-2003). This allows the IOLTA Board and the financial institution to exchange any information needed to ensure that the account is set up correctly for the ongoing balance and interest reporting required by the IOLTA rules. The enrollment form is available on the IOLTA Board's website, paiolta.org .

Questions? Please feel free to contact the IOLTA Board at paiolta@pacourts.us or by phone at (717) 238 2001.