



This is a guidance bulletin for financial institutions that hold Pennsylvania IOLTA accounts. For additional information and guidance related to Pennsylvania's IOLTA program, visit [www.paiolta.org](http://www.paiolta.org).

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**I. Overview**

A Pennsylvania IOLTA account is an interest-bearing trust account into which attorneys deposit qualifying client funds while an MJ-IOTA account is a trust account in which members of the minor judiciary (Magisterial District Judges, Municipal Court Judges, etc.) place qualified funds that are received in a custodial capacity. The Pennsylvania IOLTA Board holds the beneficial interest in the income generated by these accounts, and this income is used to fund grants to legal aid organizations across Pennsylvania. IOLTA participation is mandatory for attorneys, however, it is optional for financial institutions. This guidance bulletin is intended to assist financial institutions that wish to hold IOLTA or MJ-IOTA accounts with their obligations regarding interest rates.

A participating financial institution must ensure that the balances in IOLTA and MJ-IOTA accounts earn no less than the highest yield that those same balances would earn in any other interest bearing deposit product that permits an unlimited number of transactions. As an alternative to meeting this standard, a financial institution may opt to participate in one of the preferred interest rate programs offered by the IOLTA Board (Safe Harbor, Platinum Leader, etc.) which serve to reduce the institution's compliance obligation and also create a reliable source of funding for grants to legal aid organizations. Financial institutions that opt to participate in the Platinum Leader Bank program also qualify to receive Community Reinvestment Act reporting for their federal regulators. An IOLTA & MJ-IOTA Certification must be completed by the financial institution and submitted to the IOLTA Board for review and approval prior to the institution being approved to hold IOLTA accounts as well as prior to changing a previously certified rate.

**II. Assigning Interest Rates**

At a minimum a financial institution must ensure that the balances in IOLTA and MJ-IOTA accounts earn no less than the highest yield that those same balances would earn in any other

interest bearing deposit product that permits an unlimited number of transactions (regardless of whether the deposit product in question is marketed to consumers, businesses, or municipalities). As an alternative to meeting this standard, a financial institution may opt to participate in one of the preferred interest rate programs offered by the IOLTA Board (Safe Harbor, Platinum Leader, etc.) which serve to reduce the institution's compliance obligation and also create a reliable source of funding for grants to civil legal aid organizations. Institutions that opt to participate in the Platinum Leader Bank program also qualify to receive Community Reinvestment Act (CRA) reporting.

- 1) **Platinum Leader Rate:** *Greater of 0.75% or seventy-five percent of the Federal Funds Target Rate* (financial institutions electing the Platinum Leader Rate are relieved of the comparability compliance burden and are also featured in IOLTA outreach materials to Pennsylvania attorneys; no service fees may be assessed against the interest income). Participation in the optional Platinum Leader Rate program qualifies the financial institution to receive annual CRA reporting on the impact of the resulting additional interest income and its impact on increasing the availability of civil legal aid for low-income Pennsylvanians. Financial institutions participating at the Platinum Leader Rate need only use the low-end of the FFTR range for purposes of calculating the qualifying rate.
- 2) **Safe Harbor Rate:** *Greater of 0.50% or sixty percent of the Federal Funds Target Rate* (financial institution's electing the Safe Harbor Rate are relieved of the comparability compliance burden; no service fees may be assessed against the interest income). Financial institutions participating at the Safe Harbor Rate need only use the low-end of the FFTR range for purposes of calculating the qualifying rate.
- 3) **Comparable Rate:** *Balances in IOLTA and MJ-IOTA accounts will earn the same as the highest rates offered on the same balances in any other interest bearing deposit product that permits an unlimited number of transactions per month* (financial institutions that elect this option must provide evidence of rate comparability, and must provide an updated IOLTA & MJ-IOTA Certification to the IOLTA Board for review and approval whenever the comparable rates exceed their current IOLTA rate as well as in advance of reducing their current IOLTA rate). Additional considerations for financial institutions that use the comparable rate to achieve IOLTA compliance are outlined below:

*(a) Types of products typically considered for comparability:*

- A checking account paying interest (e.g., negotiable order of withdrawal (NOW) accounts, business checking accounts, personal checking accounts, government / municipal checking accounts);
- A money market deposit account for which the six transaction per month limitation has been waived;
- A sweep product, such as an ICS (Insured Cash Sweep);
- A checking account with a sweep investment capability, with the swept funds invested in a money market fund or financial institution repurchase agreements. In

this case, the financial institution repurchase agreements must be fully collateralized by, and the money market fund must consist solely of, United States Government Securities. The daily financial institution repurchase agreement may be established only with a financial institution that is deemed to be “well capitalized” or “adequately capitalized” as defined by applicable federal statutes and regulations. In addition to United States Treasury Bonds, United States Government Securities, for the purposes of this section, include obligations issued or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

These product options are not exhaustive. If the institution offers interest bearing accounts to non-IOLTA / non-MJ IOTA customers that meet the general functionality needed to be used as trust accounts, they should be included within the product types considered. Any deposit products which offer temporary “promotional” rates (whereby a bank customer using the product in question will no longer be able to receive the promotional interest rate after a brief period of time, i.e., three months or less) can be identified as such to the IOLTA Board and will be excluded from the consideration of comparable product rates. Supporting documentation verifying the promotional nature of these products must be provided to the IOLTA Board.

*(b) Rate differences among account balance tiers:* An institution may be able to use a single product type if the balance tiers for the particular product would ensure that the IOLTA account would receive the highest yield across a variety of balance tiers. However, if the institution offers a variety of products with different balances, the institution may need to look to several account types to ensure compliance. For example:

- Acme Bank offers NOW checking accounts at .09% for balances greater than \$2,000 and .15% for balances greater than \$20,000 as well as business checking accounts at .05% for all balance tiers, does not charge any service fees, and has no other comparable products.

In order to be compliant, Acme Bank must at a minimum ensure that IOLTA and MJ IOTA accounts have a rate of .05% for balances \$0 - \$2,000, .09% for balances between \$2,000 - \$20,000 and .15% for balances greater than \$20,000.

### III. Completing the Rate Certification Agreement

Financial institutions must complete an IOLTA & MJ-IOTA Certification pursuant to 204 PA. CODE § 81.106(c) and 81.306(c) which must be reviewed and approved by the IOLTA Board prior to holding IOLTA accounts, when the institution wishes to lower its IOLTA rate, or when the rates for any comparable products increase above the current IOLTA rate. If an institution has opted to participate in either the Safe Harbor or the Platinum Leader Rate program, the institution is relieved of the burden of filing a new IOLTA & MJ-IOTA Certification when rates for comparable interest bearing deposit products change.

The IOLTA & MJ-IOTA Certification is made available on the IOLTA Board's website at [www.paiolta.org](http://www.paiolta.org) or can be requested from the IOLTA Board via [paiolta@pacourts.us](mailto:paiolta@pacourts.us) or P.O. Box 62445, Harrisburg, PA 17106-2445. Changing the interest rates on the remittance reports provided to the IOLTA Board is not sufficient notice to change a previously certified interest rate.