NEW YORK STATE OF OPPORTUNITY. IOLA FUND
Funding Justice for All

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# General Instructions for Banking Institutions

The IOLA Fund offers the following explanations of general policies and instructions of banking forms and reports relevant to the IOLA program. Relevant statutes and regulations are available at www.iola.org/about-iola. Referenced forms are available at www.iola.org/banks Direct any banking questions to 646-865-1541 or banks@iola.org.

## 1. Joining the IOLA Program

To join the IOLA program and offer IOLA accounts, a banking institution must apply and be approved by the IOLA Fund.

A complete application includes:

a. Cover Letter
b. IOLA Rate Election & Certification Form
c. Rate Comparability Survey (if electing "Comparable Rate" Option)
d. Bank Contact Information Form
e. Agreement to Provide Dishonored Check Reports Form

Detailed instructions and forms are available at www.iola.org/banks .

## 2. Setting the Interest Rate on IOLA Accounts

To remain compliant with IOLA Regulations, a participating bank must pay an interest rate on its IOLA accounts that is not less than the highest rate available to the bank's best customers on comparable accounts. Alternatively, a bank may pay a "Safe Harbor" rate, equal to 60% of the Upper Bound of the Federal Funds Target Rate or 1.00%, whichever is greater. The Safe Harbor rate is calculated as of the first of the month.

When joining the IOLA program, banks submit the **IOLA Rate Election & Certification** Form to indicate their election (Safe Harbor or Comparable Rate).

Banks electing a "Comparable Rate" (option B), must also submit to the IOLA Fund the **Rate Comparability Survey** and all required documentation for review and approval.

In light of the requirement that an IOLA account is defined by statute as an interest bearing account, there can be **no minimum balance requirement to earn interest on any IOLA account**. Additionally, the IOLA Fund encourages banks to have a **$0 minimum balance requirement to open an IOLA account**.

To receive approval for any future changes and whenever requested to do so by the IOLA Fund, banks must submit updated forms and documentation. Any proposed change that would result in a reduction in the effective rate of a bank's IOLA product requires a minimum of 30 days advance notice.

All participating banks may be subject to an **audit** to demonstrate their compliance with the IOLA program, as requested by the IOLA Fund. (See 21 NYCRR 7000.9.)

Financial institutions that elect the Safe Harbor rate OR pay a Comparable rate at or above the Safe Harbor rate; AND waive any charges or fees on IOLA accounts will be eligible to receive a Community Reinvestment Act (CRA) credit letter.

### 3. Setting up IOLA Accounts in a Bank's System

All IOLA accounts should be set for the same closing date.

IOLA accounts may **NOT** have overdraft protection.

The IOLA Fund is the beneficial owner of the interest generated on IOLA accounts and is a tax-exempt instrumentality of the State of New York, which necessitates the following:

- The IOLA Fund's tax identification number (13-3246797) should be attributed to all IOLA accounts.
- **No** Form1099 or other similar reports should be prepared or submitted to the IRS or other tax authority for any IOLA account.
- If tax reporting cannot be suppressed, to prevent a TIN/Name Mismatch, the tax report should include the name: "Interest on Lawyer Account Fund" in the second name field. Any tax reports should be sent directly to the IOLA Fund, 420 Lexington Avenue, Rm. 607, New York, NY 10170, and not to the lawyer or law firm.

### 4. IOLA Account Titles

There are three required parts of an IOLA account's title:

- The lawyer or law firm **Name**
- One of the following phrases:
  - **"Attorney Trust Account"**
  - **"Attorney Escrow Account"**
  - **"Attorney Special Account"**
- The acronym **"IOLA"**

Examples: *John Doe, Esq. Attorney Trust Account / IOLA*
*Lennon McCartney Harrison & Starr PC Attorney Escrow Account IOLA*

**5. Service Fees**

Service fees are not required on IOLA accounts and, given the IOLA Fund's charitable purpose, many banks waive all service fees.

If a bank charges service fees:

- Service fees may only be charged against the interest earned on an IOLA account.

- Service fees shall not be greater than the fees imposed on comparable account products offered by the bank.

- Allowable service fees are limited to:
    - per check charges,
    - per deposit charges,
    - monthly maintenance fees,
    - a fee in lieu of a minimum balance or Federal Deposit Insurance fees,
    - a fee for the preparation and issuance of reports required by the Fund, (if approved in advance by the IOLA Fund).

**NOTE** : If the service charges on a given IOLA account exceed the interest earned on that account, the difference cannot be recovered from the total interest earned on all IOLA accounts. This is called "Negative Netting" and it is not allowed. Unpaid fees on one account, however, may be carried forward to the next remittance period and deducted from the interest earned on the same account.

**6. Other Fees**

Any other any special service, non-routine activity or event fees are the responsibility of the lawyer or law firm maintaining the IOLA account and may not be deducted from the interest earned on the IOLA account. Such fees may include:

- check book printing fees
- wire transfers
- cashier's checks
- certified checks
- stop payment orders
- account reconciliation services
- overdrafts
- Non-Sufficient Funds or returned checks.

Upon opening IOLA accounts, lawyers and law firms should be notified that such special or non-routine charges and fees are their responsibility. Arrangements may be made to take such fees from the lawyer's operating account. Alternatively, lawyers may deposit "reasonably sufficient" funds of their own into their IOLA account to cover fees. See 22 NYCRR Part 1200, Rule 1.15(b)(3).

7. **Offering IOLA Accounts to Lawyers and Law Firms**
   Any lawyer licensed to practice in New York State may open an IOLA account at a participating bank and deposit funds immediately. The NYS Unified Court System maintains a public Attorney Directory: www.nycourts.gov. Banks should not create procedural obstacles to the swift creation of IOLA accounts.

   Generally, a lawyer or law firm should not have multiple IOLA accounts. A lawyer or law firm's IOLA account is designed to have ALL qualified funds pooled in one account. Opening multiple accounts undermines the purpose of the IOLA program.

   IOLA accounts may **NOT** have overdraft protection.

   After opening the account, the attorney is responsible for submitting an Enrollment Form with the attorney's registration number and contact information to the IOLA Fund (available at www.iola.org/lawyers) within 30 days of opening the account. The attorney may nonetheless begin using the IOLA account as soon as the bank opens it.

8. **Interest Remittance**
   Banks must remit all net interest earned on each IOLA account on either a monthly or quarterly basis by the 10th day of the following month or 10 days after the closing date of the cycle for which you are remitting. Interest should be remitted to the IOLA Fund electronically via ACH or wire transfer. Contact the IOLA Fund for the necessary bank account information banks@iola.org.

   If a bank pays interest monthly, but elects to remit interest to the IOLA Fund quarterly, a separate IOLA account should be established to act as a holding account for the interest earned until the remittance is made.

   If an error resulted in an excess remittance, contact the IOLA Fund to arrange for a refund or credit of the excess amount banks@iola.org.. An excess remittance in one period may not be deducted automatically from a future remittance.

9. **Remittance Reports, Generally**
   A single electronic remittance report for all IOLA accounts at the bank must be submitted for each remittance period (monthly or quarterly), whether or not interest has been earned on accounts held at your institution.

   Banks should use IOLA's pre-formatted Excel template, which is available at www.iola.org/banks.

10. **Submitting a Remittance Report**
    Remittance reports are submitted via the IOLA Fund's remittance upload system (**RUS**). Detailed instructions are available at www.iola.org/banks. A participating bank first must register up to three users and each user must utilize a separate email address. To delete a user or reset a password, contact the IOLA Fund banks@iola.org.

    To upload files, choose the type of file to be uploaded:

    - **Remittance File** - Regular monthly or quarterly remittance data.

- **Adjustment File** - Data missing from previously reported remittance periods. An Adjustment File requires a brief explanation for the adjustment.

- **Closed Accounts File** – Report of closed accounts. Closed accounts should be reported no later than the next regularly scheduled remittance submission.

To streamline the remittance process, RUS will automatically verify remittance files. If a discrepancy is found (e.g., total fields not calculating correctly or extraneous data in a field), RUS will reject the file and report the line that contains the error. The bank will have an opportunity to correct and resubmit the file.

**11. Other Reporting Requirements**

Notify the IOLA Fund when:

- The banking institution seeks to change its rate election (as between Safe Harbor and Comparable Rate). Submit a new IOLA Rate Election & Certification Form, available at www.iola.org/banks. **Any proposed change that would result in a reduction in the effective rate of your IOLA product requires 30 days advance notice.**

- The banking institution's contact person for the IOLA Fund changes. Use the Bank Contact Information Form available at www.iola.org/banks.

- The banking institution acquires, merges with, or is acquired by another banking institution. Submit a letter to the IOLA Fund on the new bank letterhead.

- The banking institution changes its official name, or relocates its headquarter. Submit a letter to the IOLA Fund on the new bank letterhead.

**12. Dishonored Checks & Overdraft Reporting**

All participating banks must agree to report to the Lawyer's Fund for Client Protection in the event of an overdraft or NSF on an IOLA account.

Effective on April 1, 2021, New York's Dishonored Check Notice Reporting Rule has been expanded to include reporting "whenever a properly payable instrument is presented against an [IOLA account] which contains insufficient available funds, ***irrespective of whether the instrument is honored***." 22 NYCRR Part 300; see also the Lawyer's Fund's website, www.nylawfund.org.