

Rule 15-1001. IOLPPTA.

1 (a) A licensed paralegal practitioner or a licensed paralegal practitioner firm shall create and
2 maintain an interest or dividend-bearing trust account for client funds ("IOLPPTA account"). All
3 client funds shall be placed into this account except those funds which can earn net income for the
4 client in excess of the costs to secure such income, except as provided in paragraph (g).

5 (b) In determining whether a client's funds can earn net income in excess of the costs of
6 securing that income for the benefit of the client, the licensed paralegal practitioner or licensed
7 paralegal practitioner firm shall consider the following factors:

8 (b)(1) the amount of the funds to be deposited;

9 (b)(2) the expected duration of the deposit, including the likelihood of delay in the matter for
10 which funds are held;

11 (b)(3) the rates of interest or yield at financial institutions where the funds are to be deposited;

12 (b)(4) the costs of establishing and administering non-IOLPPTA accounts for the client's
13 benefit, including service charges, and the costs of preparing any tax reports required for income
14 accruing to the client's benefit; and

15 (b)(5) the capability of financial institutions, licensed paralegal practitioners, or their firms to
16 calculate and pay income to individual clients and any other circumstances that may affect the
17 ability of the client's funds to earn net income.

18 (c) The licensed paralegal practitioner, or the licensed paralegal practitioner firm, shall review
19 the IOLPPTA account at reasonable intervals, but not less than annually, to determine whether
20 changed circumstances require further action with respect to the funds of a particular client.

21 (d) The licensed paralegal practitioner, or the licensed paralegal practitioner firm shall:

22 (d)(1) not allow earnings from an IOLPPTA account to be made available to a licensed
23 paralegal practitioner, or licensed paralegal practitioner firm;

24 (d)(2) place in the IOLPPTA account all client funds which cannot earn net income for the
25 client in excess of the costs of securing that income;

26 (d)(3) establish an IOLPPTA account with an eligible financial institution that has voluntarily
27 chosen to offer and maintain IOLPPTA accounts, and:

28 (d)(3)(A) is authorized by federal or state law to do business in Utah;

29 (d)(3)(B) is insured by the Federal Deposit Insurance Corporation or its equivalent;

30 (d)(3)(C) complies with Rule 1.15 (a) of the Utah Rules of Licensed Paralegal Practitioner
31 Professional Conduct; and

32 (d)(4) direct the depository institution where the IOLPPTA account is established:

33 (d)(4)(A) to remit all interest or dividends, net of allowable reasonable service charges or fees,
34 if any, on the average monthly balance in the account, or as otherwise computed in accordance
35 with the institution's standard practice, at least quarterly, solely to the Utah Bar Foundation
36 ("Foundation"). When feasible, the depository institution shall remit the interest or dividends on
37 all of its IOLPPTA accounts in a lump sum, however, the depository institution must provide, for
38 each individual IOLPPTA account, the information to the Foundation required by subparagraphs
39 (d)(4)(B) and (d)(4)(C) of this rule;

40 (d)(4)(B) to report in a form and through any manner of transmission approved by the
41 Foundation showing the name of the licensed paralegal practitioner, or licensed paralegal
42 practitioner firm, and the amount of the remittance attributable to each, account number for each
43 account, the rate and type of interest or dividend applied, the amount and type of allowable
44 reasonable service charges or fees deducted, the average account balance for the reporting period
45 and such other information as is reasonably required by the Foundation;

46 (d)(4)(C) to report in accordance with normal procedures for reporting to depositors;

47 (d)(4)(D) that allowable reasonable service charges or fees in excess of the interest earned on
48 the account for any period shall not be taken from interest earned on other IOLPPTA accounts or
49 any principal balance of the accounts; and

50 (d)(4)(E) to comply with all other administrative rules for IOLPPTA accounts as promulgated
51 by the Foundation or the Supreme Court.

52 (e) The determination of whether an institution is an eligible institution and whether it is
53 meeting the requirements of this rule shall be made by the Utah Bar Foundation. The Foundation
54 shall maintain a list of participating eligible financial institutions, and shall provide a copy of the
55 list to any Utah licensed paralegal practitioner upon request.

56 (f) Licensed paralegal practitioners may only maintain IOLPPTA accounts in eligible financial
57 institutions. Eligible financial institutions are those that voluntarily offer IOLPPTA accounts and
58 comply with the requirements of this rule, including maintaining IOLPPTA accounts which pay
59 the highest interest rate or dividend generally available from the institution to its non-IOLPPTA
60 account customers when IOLPPTA accounts meet or exceed the same minimum balance or other

61 account eligibility qualifications, if any. In determining the highest interest rate or dividend
62 generally available from the institution to its non-IOLPPTA accounts, eligible institutions may
63 consider factors, in addition to the IOLPPTA account balance, customarily considered by the
64 institution when setting interest rates or dividends for its customers, provided that such factors do
65 not discriminate between IOLPPTA accounts and accounts of non-IOLPPTA customers, and that
66 these factors do not include that the account is an IOLPPTA account.

67 (f)(1) An eligible financial institution may satisfy these comparability requirements by electing
68 one of the following options:

69 (f)(1)(A) establish the IOLPPTA account as the comparable rate product; or

70 (f)(1)(B) pay the comparable rate on the IOLPPTA checking account in lieu of actually
71 establishing the comparable highest interest rate or dividend product;

72 (f)(1)(C) pay an amount on funds that would otherwise qualify for the investment options noted
73 at (f)(3) equal to 70% of the federal funds targeted rate as of the first business day of the month or
74 other IOLPPTA remitting period, which is deemed to be already net of allowable reasonable
75 service charges or fees. The safe harbor yield rate may be adjusted once per year by the Foundation,
76 upon 90 days' written notice to financial institutions participating in the IOLPPTA program; or

77 (f)(1)(D) pay a yield rate specified by the Foundation, if the Foundation so chooses, which is
78 agreed to by the financial institution. The rate would be deemed to be already net of allowable
79 reasonable fees and would be in effect for and remain unchanged during a period of no more than
80 twelve months from the inception of the agreement between financial institution and the
81 Foundation.

82 (f)(2) IOLPPTA accounts may be established as:

83 (f)(2)(A) a business checking account with an automated investment feature, such as an
84 overnight and investment in repurchase agreements or money market funds invested solely in or
85 fully collateralized by U.S. government securities, including U.S. Treasury obligations and
86 obligations issued or guaranteed as to principal and interest by the United States or any agency or
87 instrument thereof;

88 (f)(2)(B) a checking account paying preferred interest rates, such as money market or indexed
89 rates;

90 (f)(2)(C) a government interest-bearing checking account such as accounts used for municipal
91 deposits;

92 (f)(2)(D) an interest-bearing checking account such as a negotiable order of withdrawal
93 (NOW) account, or business checking account with interest;

94 (f)(2)(E) any other suitable interest-bearing deposit account offered by the institution to its
95 non-IOLPPTA customers.

96 (f)(3) A daily financial institution repurchase agreement shall be fully collateralized by United
97 States Government Securities and may be established only with an eligible institution that is "well
98 capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes
99 and regulations. An open-end money-market fund shall be invested solely in the United States
100 Government Securities or repurchase agreements fully collateralized by United States Government
101 Securities, shall hold itself out as a "money-market fund" as that term is defined by federal statutes
102 and regulations under the Investment Company Act of 1940 and, at the time of the investment,
103 shall have total assets of at least two hundred fifty million dollars (\$250,000,000).

104 (f)(4) Nothing in this rule shall preclude a participating financial institution from paying a
105 higher interest rate or dividend than described above or electing to waive any service charges or
106 fees on IOLPPTA accounts.

107 (f)(5) Interest and dividends shall be calculated in accordance with the participating financial
108 institution's standard practice for non-IOLPPTA customers.

109 (f)(6) "Allowable reasonable service charges or fees" for IOLPPTA accounts are defined as
110 per check charges, per deposit charges, a fee in lieu of minimum balances, sweep fees, FDIC
111 insurance fees, and a reasonable IOLPPTA account administrative fee.

112 (f)(7) Allowable reasonable service charges or fees may be deducted from interest or dividends
113 on an IOLPPTA account only at the rates and in accordance with the customary practices of the
114 eligible institution for non-IOLPPTA customers. No fees or service charges other than allowable
115 reasonable fees may be assessed against the accrued interest or dividends on an IOLPPTA account.
116 Any fees and service charges other than allowable reasonable fees shall be the sole responsibility
117 of, and may be charged to, the licensed paralegal practitioner or licensed paralegal practitioner
118 firm maintaining the IOLPPTA account.

119 (g) Any IOLPPTA account which has or may have the net effect of costing the IOLPPTA
120 program more in fees than earned in interest over a period of any time, may at the discretion of the
121 Foundation, be exempted from and removed from the IOLPPTA program. Exemption of an
122 IOLPPTA account from the IOLPPTA program revokes the permission to use the Foundation's

123 tax identification number for that account. Exemption of such account from the IOLPPTA program
124 shall not relieve the licensed paralegal practitioner and/or licensed paralegal practitioner firm from
125 the obligation to maintain the property of client funds separately, as required above, in a non-
126 interest bearing account and also will not relieve the licensed paralegal practitioner of the annual
127 IOLPPTA certification.

128 (h) In the event a licensed paralegal practitioner determines that funds placed in an IOLPPTA
129 account should have been placed in an interest bearing account for the benefit of the client, the
130 licensed paralegal practitioner, licensed paralegal practitioner firm shall:

131 (h)(1) make a request for a refund in writing, in a timely manner, to the Foundation on firm
132 letterhead within a reasonable period of time after the interest was remitted to the Foundation; and

133 (h)(2) provide verification from the financial institution of the interest amount. In no event will
134 the Foundation refund more than the amount of net interest it received; remittance shall be made
135 to the financial institution for transmittal to the licensed paralegal practitioner, or licensed
136 paralegal practitioner firm, after appropriate accounting and reporting.

137 (i) On or before September 1 of each year, any licensed paralegal practitioner licensed in Utah
138 shall certify to the Foundation, in such form as the Foundation shall provide ("IOLPPTA
139 Certification Form"), that the licensed paralegal practitioner is in compliance with, or is exempt
140 from, the provisions of this rule. If the licensed paralegal practitioner, or licensed paralegal
141 practitioner firm, maintains an IOLPPTA account, the licensed paralegal practitioner shall certify
142 the manner in which the licensed paralegal practitioner accounts for the interest on clients' trust
143 accounts. The IOLPPTA Certification Form shall include the financial institution, account
144 numbers, name of accounts and such other information as the Foundation shall require. If the
145 licensed paralegal practitioner is exempt from the IOLPPTA program, the licensed paralegal
146 practitioner must still submit an IOLPPTA Certification Form annually to certify to the Foundation
147 that he or she is exempt from the provisions in this Rule. Each licensed paralegal practitioner shall
148 keep and maintain records supporting the information submitted in the IOLPPTA Certification
149 Form. The licensed paralegal practitioner shall maintain these records for a period of five years
150 from the end of the period for which the IOLPPTA Certification Form is filed, and these records
151 shall be submitted to the Foundation upon written request. Failure by the licensed paralegal
152 practitioner to produce such records within thirty days after written request by the Foundation

153 constitutes a rebuttable presumption that the licensed paralegal practitioner has not complied with
154 these rules.

155 (i)(1) If the IOLPPTA Certification Form is timely filed, indicating compliance, there will be
156 no acknowledgement. Should an IOLPPTA Certification Form filed by a licensed paralegal
157 practitioner fail to evidence compliance, the Foundation shall contact the licensed paralegal
158 practitioner and attempt to resolve the non-compliance administratively.

159 (i)(2) The Foundation shall furnish annually to the Utah Supreme Court a list of all licensed
160 paralegal practitioners who have not timely filed an IOLPPTA Certification Form and any licensed
161 paralegal practitioners with whom the Foundation has been unable to administratively resolve an
162 impediment to the proper filing of an IOLPPTA Certification Form or the proper compliance with
163 Rule 15-1001, IOLPPTA.

164 (i)(3) Any licensed paralegal practitioner who is not in compliance with IOLPPTA or who has
165 failed to complete the IOLPPTA Certification Form by September 1 will be sent, by certified mail,
166 return receipt requested, a non-compliance notice. Should the licensed paralegal practitioner fail
167 or refuse to rectify the situation within thirty (30) days of such notice, the Foundation shall petition
168 the Utah Supreme Court for the licensed paralegal practitioner's suspension from the practice of
169 law.

170 (i)(4) A licensed paralegal practitioner suspended by the Utah Supreme Court under the
171 provisions of this rule may be reinstated by the Court upon motion of the Foundation showing that
172 the licensed paralegal practitioner has cured the noncompliance issue for which the licensed
173 paralegal practitioner has been suspended. If a licensed paralegal practitioner has been suspended
174 by the Utah Supreme Court for non-compliance with these rules, the licensed paralegal practitioner
175 must then comply with all applicable rules to be eligible to return to active or inactive status.

176 (j) A licensed paralegal practitioner may be exempt from having to maintain an IOLPPTA
177 account for the following reasons:

178 (j)(1) the licensed paralegal practitioner, or law firm's client trust account has been exempted
179 and removed from the IOLPPTA program by the Foundation pursuant to paragraph (g) of this rule;
180 or

181 (j)(2) the licensed paralegal practitioner has certified in his or her most recent annual IOLPPTA
182 Certification Form that the licensed paralegal practitioner:

183 (j)(2)(A) is not engaged in the private practice of law or does not manage or handle client trust
184 funds and does not have a client trust account;

185 (j)(2)(B) does not have an office within Utah and has the client's permission to hold the funds
186 out of state; or

187 (j)(2)(C) has been exempted by an order of general or special application of this Court which
188 is cited in the certification;

189 (j)(3) the licensed paralegal practitioner, or licensed paralegal practitioner firm petitions for
190 and receives a written exemption from the Foundation that compliance with this rule would create
191 an undue hardship on the licensed paralegal practitioner and would be extremely impractical, based
192 on geographic distance between the licensed paralegal practitioner's principal office and the
193 closest depository institution which is participating in the IOLPPTA program.

194 (k) Licensed paralegal practitioners must notify the Foundation in writing within thirty (30)
195 days of any change in IOLPPTA status, including the opening or closing of any IOLPPTA
196 accounts.

197 (l) The Foundation is the only entity authorized to receive and administer IOLPPTA funds in
198 Utah.

199 (l)(1) The Foundation shall have general supervisory authority over the administration of the
200 IOLPPTA funds, subject to the continuing jurisdiction of the Supreme Court.

201 (l)(2) The Foundation shall receive the net earnings from all IOLPPTA accounts and shall
202 make appropriate investments of IOLPPTA funds. The Foundation shall maintain proper records
203 of all IOLPPTA receipts and disbursements, which records shall be audited or reviewed annually
204 by a certified public accountant. The Foundation shall annually present to the Supreme Court a
205 reviewed or audited financial statement of the IOLPPTA receipts and expenditures for the prior
206 year and a summary thereof shall be made available to anyone requesting copies.

207 (l)(3) The Foundation shall be responsible to present annually to the Supreme Court a status
208 report on activities of the Foundation and compliance with these rules.

209 (l)(4) The Foundation shall be responsible to make disbursements from the IOLPPTA program
210 funds, including current and accumulated net earnings, by grants, appropriations and other
211 appropriate measures, as outlined in the articles and by-laws for the organization.

212 (l)(5) The Foundation shall promulgate such other rules, procedures, reports and forms that are
213 necessary or advisable for the proper implementation of the foregoing rules.

214 (m) Every licensed paralegal practitioner, shall, as a condition thereof, be conclusively
215 deemed to have consented to the reporting requirements mandated by this rule.

Effective November 1, 2018