

Client Trust Account Self-Audit

Whether you handle your own trust account or supervise others, a trust account self-audit is an important way to check that your management of client trust funds is in compliance with the rules and your fiduciary duties to clients.

The following self-assessment is a series of “yes” or “no” questions and is intended to highlight key elements of proper trust account management. This self-audit does not cover every single issue that might occur with a trust account. This is for your benefit; so be honest with yourself.

Opening and Maintaining an IOLTA Trust Account

- 1. Is your trust account maintained at a financial institution that is on the Lawyers Trust Fund of Illinois (LTF) or ARDC list of institutions eligible to hold trust account?**

IL Rule 1.15B(c) and 1.15C(d)

Yes | No

- 2. Is the client trust account clearly labelled as a client trust account on the title of the account, checks, deposits and other records?**

IL Rule 1.15(b) and Comment [3].

Yes | No

- 3. Do you keep nominal sums in the account that are necessary to only cover bank charges and service fees that may arise so that client funds are not used to cover trust account service charges?**

IL Rule 1.15(c)

Yes | No

- 4. Do you deposit or hold additional funds in your trust account as a protection buffer against overdrafts or for any other reason?**

IL Rule 1.15(b) and 1.15B(e) and Comment [6]

Yes | No

- 5. Do you maintain accurate up-to-date records of the amounts held and expended for bank fees?**

IL Rule 1.15(c) and Comment [4].

Yes | No

Receipts and Deposits

- 6. Do you promptly notify clients or third persons when funds are received on their behalf?**

IL Rule 1.15(e)

Yes | No

- 7. Do you deposit client funds into the trust account as soon as you receive them?**

IL Rule 1.15(b)

Yes | No

- 8. Do you maintain a record of all deposits to and withdrawals from the trust account specifically identifying the date, source, and description of each item deposited and the date, payee, client matter, and purpose of each disbursement?**

IL Rule 1.15A(b)(1)

Yes | No

- 9. Upon request by any client or third person whose funds are being held in your trust account, are you able to promptly provide a full accounting?**

IL Rule 1.15(e)

Yes | No

- 10. Do you have procedures in place to ensure that any payments in cash are documented by a receipt signed by both the recipient and the payor, and that copies of such receipts are maintained?**

IL Rule 1.15A(b)(3)

Yes | No

- 11. For all electronic transfers or withdrawals from the trust account is a written record made showing:**

the name of the person authorizing transfer;

the date of transfer;

the name of the recipient and confirmation from the financial institution of the trust account number from which money was withdrawn; and

the date and the time the transfer was completed?

IL Rule 1.15A(b)(1)

Yes | No

Fees

- 12. Do you transfer earned fees from the trust account to your operating account only after you have completed the work and invoiced the client and included an accounting summary of any of the client's funds remaining in the trust account?**

Yes | No

- 13. Do you promptly return any unearned funds to the client if the representation ends before the services have been completed or the client requests a refund?**

IL Rule 1.5(cc)

Yes | No

- 14. If a dispute arises regarding rights to funds held in the trust account, do you maintain those funds in the trust account until the dispute is resolved?**

IL Rule 1.15(e)

Yes | No

- 15. If funds are received to secure payment of legal fees and expenses, to be withdrawn by the lawyer only as fees are earned and expenses are incurred, do you deposit those funds in the trust account?**

IL Rule 1.15(d)

Yes | No

- 16. Are funds received as a fixed fee, an engagement retainer, or a special purpose retainer, as described in Rule 1.5, deposited in your operating or business account?**

IL Rule 1.15(d)

Yes | No

- 17. Do you accept credit card payments for only earned fees and expenses, advances for fee and expenses (e.g. security retainers) or for both?**

If both, do you know if the credit card issuer is transferring the funds directly to the correct account to avoid commingling – one a business account and a one a trust account – to receive the payments?

See ISBA Ethics Op. 14-01 (May 2014)

Yes | No

18. Do you have a written understanding with your credit card issuer that no chargebacks for credit card transactions will be assessed against your trust account?

See ISBA Ethics Op. 14-01 (May 2014)

Yes | No

19. If you pass on the service fee to clients for accepting credit card payments, is the fee reasonable and disclosed in advance in the engagement agreement with the client?

See ISBA Ethics Op. 14-01 (May 2014)

Yes | No

Disbursements

20. Before any disbursements are made from your trust account, do you know the financial institution's check clearing procedures and schedules of when deposits are posted to the account and when funds can be withdrawn?

See ARDC Client Trust Account Handbook, You Can't Spend What You Don't Have or Timing is Everything, at p. 29.

Yes | No

21. If someone other than a lawyer is a signatory on the trust account, does a lawyer in your firm also sign every check?

See ARDC Client Trust Account Handbook, Select Signatories with Care, p. 19.

Yes | No

22. Do you make cash withdrawals from the trust account or allow checks to be made payable to "Cash" or "Bearer"?

IL Rule 1.15(g)

Yes | No

23. For every disbursement from your trust account, do you make simultaneous records which include:

- Client Identity
- Payor Identity
- Payment Date
- Reason for Payment - with client reference
- Copy of Check

IL Rule 1.15A(b)(1)

Yes | No

Recordkeeping

24. Do you prepare and maintain for all trust accounts the following required books and records?

Checkbook Register or Account Master Balance	Yes No
Receipts Journal	Yes No
Disbursements Journal	Yes No
Client Ledger Journal	Yes No
Reconciliation Report Journal	Yes No
Fee agreements, engagement letters, retainer agreements and compensation agreements with clients	Yes No
Bills for legal fees and expenses rendered to clients	
Copies of all accountings to clients or third persons showing the disbursement of funds to them or on their behalf	Yes No
Client trust account checkbook registers	Yes No
Check stubs	Yes No
Bank Statements	Yes No
Record of deposits	Yes No
Canceled checks (if provided) or other records of debits	Yes No
Memoranda documenting wire or electronic account transfers	Yes No
Copies of all retainer and compensation agreements with clients	Yes No
Copies of all bills rendered to clients for legal fees and expenses	Yes No
Receipts for cash received	Yes No

IL Rule 1.15A(b)(1)-(7)

Yes | No

25. Does each client ledger record every transaction (deposit, withdrawal, transfers, etc.) with the date, amount, purpose, and balance?

IL Rule 1.15A(b)(2)

Yes | No

26. Have you made appropriate arrangements for the maintenance of your trust account records in the event of the closing, sale, dissolution, or merger of your law practice?

IL Rule 1.15A(b)(8)

Yes | No

Reconciliation

27. Do you or someone under your direction perform a monthly reconciliation soon after you receive your bank statement?

IL Rule 1.15A(b)(7) and (c);

See ARDC Client Trust Account Handbook, Reconcile Monthly, at p. 39

Yes | No

28. Do you or someone under your direction perform a three-way reconciliation by comparing your bank statement, client ledgers, and accounting records and resolve any discrepancies or errors?

IL Rule 1.15A(b)(7) and (c)

Yes | No

29. If not performed by you, do you review the three-way reconciliation to ensure that it balances and any open questions are answered?

Yes | No

30. Do you keep a record of the monthly reconciliation?

IL Rule 1.15B(b)(7)

Yes | No

31. Do you ensure that your trust account and business account records are maintained in paper or electronic form for at least seven years at the end of the representation?

IL Rule 1.15A(a) and (b).

Yes | No

Security Measures

32. Check all that apply:

- I maintain written policies and procedures for handling funds and maintain records for my trust and operating accounts and I have confirmed that my policies comply with the requirements of the most current version of Rule 1.15 and its subparts, 1.15A, 1.15B and 1.15C.
- I have trained my staff, and retrained them this year, on firm policies and procedures for handling funds and maintaining financial records.
- We annually contract with an external accounting professional to analyze my trust and operating account procedures and actual practices.
- I require dual control before each trust account transaction may be completed.
- I use different colored trust accounting checks and checkbook covers or utilize other measures to distinguish the trust account from other accounts..
- I keep my trust account checks, deposit slips, and records physically and electronically secure and separate from all other accounts and financial materials.
- We are extremely cautious and suspicious if unknown parties (prospective clients) ask us to receive or briefly hold funds, especially when sent by cashier's check. We talk to our banker and risk manager before accepting any such arrangements.
- I have read Rule 1.15 this year. If I had questions or concerns about my ethical obligations under those rules, I sought guidance from the ARDC Client Trust Account Handbook or called the ARDC Ethics Inquiry phonenumber.
- If I have questions or concerns about establishing an IOLTA account or working with a financial institution, I know to contact the Lawyers Trust Fund of Illinois, www.ltf.org.
- I have reviewed Rule 1.15B to help me determine whether particular deposits should be held in an IOLTA account, or instead, be placed in a dedicated trust account for the benefit of a client (because, e.g., the amount of funds deposited is large and/or will be held for an extended period).
- I understand that the ARDC will investigate any trust account overdraft and I will be expected to produce records required by Rule 1.15A.
- I have recently reviewed the regulations related to FDIC coverage of funds held in trust accounts - www.fdic.gov.
- I have reported and updated my trust account information on my annual registration with the ARDC.

Congratulations on completing your self-audit! Thank you for your diligence and honesty throughout this self-audit. We hope that by taking the time to reflect and assess your trust account practices you have learned your areas of strength and identified opportunities for improvement.

If after completing the self audit you have questions about your trust account compliance, the ARDC has a number of resources on its website including the *Client Trust Account Handbook* as well as sample accounting forms that can assist you.

The ARDC is also available to answer your trust account and other professional responsibility questions through its Ethics Inquiry phoneline which can be reached by calling the ARDC's Chicago or Springfield office.