

**Regulations for the Approval of Financial Institutions as a
Depository for Attorney Trust Accounts in Virginia**

Purpose

The Virginia Supreme Court has adopted a requirement that all attorneys who practice law in the Commonwealth of Virginia maintain trust accounts for the deposit of client funds in financial institutions approved by the Virginia State Bar. *See* Rules of Virginia Supreme Court, Part 6, § II, Virginia Rule of Professional Conduct 1.15, and any successor provisions. The Virginia Supreme Court has directed the Virginia State Bar to adopt rules and regulations governing the approval and termination of financial institutions' approved status as depositories for attorney trust accounts. Pursuant to this authority, the Virginia State Bar has adopted the following regulations.

Regulation 101: Definitions

“Financial institution” includes regulated state or federally chartered banks, savings institutions and credit unions that are properly licensed and authorized to do business, have federal insurance on deposits, and have entered into a Trust Account Notification Agreement with the Virginia State Bar.

“Properly payable” refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under Uniform Commercial Code Section 4-104, if sufficient funds are available.

“Notice of Dishonor” refers to the notice which, pursuant to Uniform Commercial Code Section 3-508(2), must be given by a drawee bank before its midnight deadline.

“Attorney trust account” or “trust account” means an account, including an escrow account, maintained in a financial institution for the deposit of funds received or held by an attorney or law firm on behalf of a client, an estate or a ward.

“Client” includes any individual, firm or entity for which an attorney performs any legal service, including acting as an escrow agent, fiduciary, or as a legal representative of a fiduciary. The term does not include a public or private entity of which the attorney is a full-time employee.

“Law firm” includes a partnership of attorneys; a professional limited liability or nonprofit corporation formed for the purpose of practicing law; and any combination of entities engaged in the practice of law. In the case of a law firm with offices in this Commonwealth and other jurisdictions, these regulations apply only to the offices in this Commonwealth, to trust accounts in other jurisdictions holding funds of clients who are located in this Commonwealth, and to trust accounts in other jurisdictions holding client funds from a transaction arising in this Commonwealth.

“Insufficient funds” refers to a state of affairs in which there is an insufficient collected balance in an account as reflected in the financial institution's accounting records, so that an otherwise properly payable item presented for payment cannot be paid without creating an overdraft in the account.

“Dishonored” shall refer to instruments that have been dishonored because of insufficient funds as defined above.

Regulation 102: Approval of Financial Institution

The Virginia State Bar shall approve as a depository for attorney trust accounts any financial institution that meets the requirements stated in these regulations and executes the Trust Account Notification Agreement, which is attached hereto and made a part of these regulations.

Regulation 103: Cancellation of Trust Account Notification Agreements

No Trust Account Notification Agreement filed by a financial institution under these regulations shall be canceled except upon thirty (30) days written notice to the Virginia State Bar. Notice shall be sent by certified mail addressed to Bar Counsel, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, Virginia 232192800.

These regulations were approved by the Virginia State Bar on the 17th day of June, 1999, to become effective July 1, 1999.

Trust Account Notification Agreement

This Trust Account Notification Agreement (“Agreement”) is made this _____ day of _____, by and between the Virginia State Bar and _____, (“Financial Institution”).

WITNESS:

The undersigned, an officer of the Financial Institution executing this Agreement, being duly authorized to bind said institution by this Agreement, hereby applies to be approved as a depository to receive escrow, trust, or client funds, as defined in Virginia Rule of Professional Conduct 1.15, or any successor provision(s), from attorneys for deposit in what are hereinafter referred to as “Trust Accounts.” The Financial Institution agrees to comply with the requirements of RPC 1.15, or any successor provisions, as more specifically set forth below:

1. **Notification to Attorneys or Law Firm.** To notify the attorney or law firm promptly of an overdraft in any Trust Account or the dishonor for insufficient funds of any instrument drawn on any Trust Account held by it.
2. **Notification to Bar Counsel.** To report the overdraft or dishonor to Bar Counsel of the Virginia State Bar, as set forth in Paragraph 4 of this Agreement.
3. **Audit of Trust Account.** To provide reasonable access to all records of the Trust Account if an audit of such account is ordered pursuant to court order, or upon receipt of a subpoena therefor.
4. **Form of Report.** That all such reports shall be substantially in the following format:
 - (a) In the case of a dishonored instrument, the report shall be identical to the notice of dishonor customarily forwarded to the depositor and shall include the name and address of the depositor notified, as well as a copy of the dishonored instrument, if such copy is normally provided to the depositor. The report shall be made simultaneously with and within the time provided by law for notice of dishonor to the depositor.
 - (b) In the case of instruments that are presented against insufficient funds in a Trust Account, but are honored by the financial institution, the report shall be in writing and in the form titled “Report of Attorney Trust Account Overdraft,” which is attached to and made of part of these regulations, and identifies the financial institution reporting the overdraft, the account number, the name and address of the lawyer or law firm account holder on which the check was drawn, the date of the overdraft, the amount of the overdraft, the name of the person making the report, their address and telephone number and the date. The report shall be mailed within five (5) banking days after the date of presentation for payment against insufficient funds.
5. **Consent of Attorneys or Law Firms.** The Financial Institution may require, as a condition to opening an attorney Trust Account, the written consent of the attorney or law firm opening such account to the notification to Bar Counsel of the Virginia State Bar as set forth in Paragraph 2 of this Agreement.
6. **Change of Name or Corporate Form.** If a Financial Institution changes its name, merges or otherwise affiliates with, or is acquired by another entity, the successor Financial Institution shall promptly notify Bar Counsel of the change and whether the successor institution wishes to serve as an approved depository for attorney Trust Accounts.
7. **Termination of Agreement.** This Agreement may terminate upon thirty (30) days notice from the Financial Institution in writing to Bar Counsel that the institution intends to terminate the Agreement on a stated date and that copies of the termination notice have been mailed to all attorneys and law firms that maintain Trust Accounts with the Financial Institution or any branch thereof. Notice to the Bar Counsel shall be sent by certified mail to the Virginia State Bar, Attention: Bar Counsel, 707 E. Main Street, Suite 1500, Richmond, Virginia 23219 2800.
8. **Binding Effect.** This Agreement shall be binding upon the Financial Institution and any branch thereof receiving Trust Accounts.
9. **Inclusion of Rules and Regulations by Reference.** The Rules of the Virginia Supreme Court and the regulations adopted by the Virginia State Bar governing the approval and termination of financial institutions’ approved status as depositories for attorney Trust Accounts are included herein by reference and made a part of this Agreement.

ATTORNEY TRUST ACCOUNT REGULATIONS

IN WITNESS WHEREOF, the Financial Institution has executed this Agreement on the date and year written above.

ATTEST:

Name of Financial Institution

Address of Financial Institution

By _____
Officer's Name
(Please print)

Officer's Signature

Corporate Office Held