

Rule 1.15A. Trust account overdraft notification.

(a) Every attorney practicing or admitted to practice in this jurisdiction shall designate every account into which attorney trust or escrow funds are deposited either as “Rule 1.15A Attorney Trust Account” or “1.15A Trust Account” or “Rule 1.15A Attorney Escrow Account” or “1.15A Escrow Account,” pursuant to Rule 1.15(d)(2).

(b) Bank accounts designated as “Rule 1.15A Attorney Trust Account” or “1.15A Trust Account” or “Rule 1.15A Attorney Escrow Account” or “1.15A Escrow Account,” pursuant to Rule 1.15(d)(2) shall be maintained only in financial institutions approved by the Lawyers’ Fund for Client Protection (the “Fund”). A financial institution may not be approved as a depository for attorney trust and escrow accounts unless it shall have filed with the Fund an agreement, in a form provided by the Fund, to report to the Office of Disciplinary Counsel (“ODC”) in the event any instrument in properly payable form is presented against an attorney trust or escrow account containing insufficient funds, irrespective of whether or not the instrument is honored.

(c) The Supreme Court may establish rules governing approval and termination of approved status for financial institutions and the Fund shall annually publish a list of approved financial institutions. No trust or escrow account shall be maintained in any financial institution that does not agree to make such reports. Any such agreement shall apply to all branches of the financial institution and shall not be canceled except upon thirty (30) days notice in writing to the Fund.

(d) The overdraft notification agreement shall provide that all reports made by the financial institution shall be in the following format:

(1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument to the ODC no later than seven (7) calendar days following a request for the copy by the ODC.

(2) In the case of instruments that are presented against insufficient funds, but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of the overdraft created thereby.

(e) Reports shall be made simultaneously with, and within the time provided by law for, notice of dishonor. If an instrument presented against insufficient funds is honored, then the report shall be made within seven (7) calendar days of the date of presentation for payment against insufficient funds.

(f) Every attorney practicing or admitted to practice in this jurisdiction shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements mandated by this rule.

(g) Nothing herein shall preclude a financial institution from charging a particular attorney or law firm for the reasonable costs of producing the reports and records required by this rule.

(h) The terms used in this section are defined as follows:

(1) “Financial institution” includes banks, savings and loan associations, credit unions, savings banks and any other business or persons which accept for deposit funds held in trust by attorneys.

(2) “Properly payable” refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under the laws of Delaware.

(3) “Notice of dishonor” refers to the notice which a financial institution is required to give, under the laws of Delaware, upon presentation of an instrument which the institution dishonors.