

1 **Rule 15-1001. IOLPPTA.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

59 (f) Licensed paralegal practitioners may only maintain IOLPPTA accounts in eligible  
60 financial institutions. Eligible financial institutions are those that voluntarily offer IOLPPTA  
61 accounts and comply with the requirements of this rule, including maintaining IOLPPTA  
62 accounts which pay the highest interest rate or dividend generally available from the institution

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

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

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

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

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

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

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

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

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

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

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

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

101 (f)(3) A daily financial institution repurchase agreement shall be fully collateralized by  
102 United States Government Securities and may be established only with an eligible institution that  
103 is "well capitalized" or "adequately capitalized" as those terms are defined by applicable federal  
104 statutes and regulations. An open-end money-market fund shall be invested solely in the United  
105 States Government Securities or repurchase agreements fully collateralized by United States  
106 Government Securities, shall hold itself out as a "money-market fund" as that term is defined by  
107 federal statutes and regulations under the Investment Company Act of 1940 and, at the time of  
108 the investment, shall have total assets of at least two hundred fifty million dollars  
109 (\$250,000,000).

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

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

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

118 (f)(7) Allowable reasonable service charges or fees may be deducted from interest or  
119 dividends on an IOLPPTA account only at the rates and in accordance with the customary  
120 practices of the eligible institution for non-IOLPPTA customers. No fees or service charges other  
121 than allowable reasonable fees may be assessed against the accrued interest or dividends on an  
122 IOLPPTA account. Any fees and service charges other than allowable reasonable fees shall be

123 the sole responsibility of, and may be charged to, the licensed paralegal practitioner or licensed  
124 paralegal practitioner firm maintaining the IOLPPTA account.

125 (g) Any IOLPPTA account which has or may have the net effect of costing the IOLPPTA  
126 program more in fees than earned in interest over a period of any time, may at the discretion of  
127 the Foundation, be exempted from and removed from the IOLPPTA program. Exemption of an  
128 IOLPPTA account from the IOLPPTA program revokes the permission to use the Foundation's  
129 tax identification number for that account. Exemption of such account from the IOLPPTA  
130 program shall not relieve the licensed paralegal practitioner and/or licensed paralegal practitioner  
131 firm from the obligation to maintain the property of client funds separately, as required above, in  
132 a non-interest bearing account and also will not relieve the licensed paralegal practitioner of the  
133 annual IOLPPTA certification.

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

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

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

144 (i) On or before September 1 of each year, any licensed paralegal practitioner licensed in  
145 Utah shall certify to the Foundation, in such form as the Foundation shall provide ("IOLPPTA  
146 Certification Form"), that the licensed paralegal practitioner is in compliance with, or is exempt  
147 from, the provisions of this rule. If the licensed paralegal practitioner, or licensed paralegal  
148 practitioner firm, maintains an IOLPPTA account, the licensed paralegal practitioner shall certify  
149 the manner in which the licensed paralegal practitioner accounts for the interest on clients' trust  
150 accounts. The IOLPPTA Certification Form shall include the financial institution, account  
151 numbers, name of accounts and such other information as the Foundation shall require. If the  
152 licensed paralegal practitioner is exempt from the IOLPPTA program, the licensed paralegal  
153 practitioner must still submit an IOLPPTA Certification Form annually to certify to the

154 Foundation that he or she is exempt from the provisions in this Rule. Each licensed paralegal  
155 practitioner shall keep and maintain records supporting the information submitted in the  
156 IOLPPTA Certification Form. The licensed paralegal practitioner shall maintain these records for  
157 a period of five years from the end of the period for which the IOLPPTA Certification Form is  
158 filed, and these records shall be submitted to the Foundation upon written request. Failure by the  
159 licensed paralegal practitioner to produce such records within thirty days after written request by  
160 the Foundation constitutes a rebuttable presumption that the licensed paralegal practitioner has  
161 not complied with these rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

215       (1)(3) The Foundation shall be responsible to present annually to the Supreme Court a status  
216 report on activities of the Foundation and compliance with these rules.

217       (1)(4) The Foundation shall be responsible to make disbursements from the IOLPPTA  
218 program funds, including current and accumulated net earnings, by grants, appropriations and  
219 other appropriate measures, as outlined in the articles and by-laws for the organization.

220       (1)(5) The Foundation shall promulgate such other rules, procedures, reports and forms that  
221 are necessary or advisable for the proper implementation of the foregoing rules.

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