



## **GUIDELINES FOR APPROVAL OF FINANCIAL INSTITUTIONS TO SERVE AS A DEPOSITORY FOR LAWYER TRUST ACCOUNTS (IOLTA and non-IOLTA Trust Accounts)**

### **Purpose**

The Michigan Supreme Court adopted MRPC 1.15A (Michigan Rule of Professional Conduct 1.15A), also known as the Trust Account Overdraft Notification (“TAON”) rule, which requires lawyers to keep their client or third person trust accounts in financial institutions approved by the State Bar of Michigan (“SBM”) to serve as a depository for lawyer trust accounts. The TAON rule is intended to provide early warning of unethical activity in a lawyer trust account.

To obtain SBM approval to serve as a depository for lawyer trust accounts, including both IOLTA and non-IOLTA lawyer trust accounts as defined by MRPC 1.15(a) (“approved status”), financial institutions must execute a [Trust Account Overdraft Notification Agreement \(“TAON Agreement”\)](#), a form provided by the SBM, committing to provide overdraft reports to the account holder and the Grievance Administrator (“GA”) of the Attorney Grievance Commission (“AGC”), a component of Michigan’s attorney discipline system, for all lawyer trust accounts that it holds. The purpose of the AGC is to maintain and promote the integrity of the legal profession and to protect the public, the courts, and the legal profession. To fulfill its purpose, the AGC investigates and prosecutes allegations of professional misconduct regarding attorneys licensed or otherwise permitted to practice law in Michigan.

Michigan lawyers are required by the TAON rule to identify non-IOLTA trust accounts to their financial institutions in writing by completing a [Non-IOLTA Lawyer Trust Account Notice to Financial Institution](#) form. Preexisting IOLTA trust accounts are already properly identified via the IOLTA Notice to Eligible Financial Institutions form. That form will also automatically properly identify any new IOLTA account when it is used to establish the account.

These guidelines explain the SBM process for determining, terminating, and revoking “approved status” of financial institutions. The SBM publishes a list of [Approved Financial Institutions](#) (“Approved List”) on its website. The SBM will periodically update the Approved List as financial institutions are added or removed.

Lawyers practicing and licensed to practice in Michigan are required to confirm that the financial institution holding their trust accounts has obtained “approved status,” and therefore, may serve as a depository for lawyer trust accounts.

Financial institutions obtaining “approved status” under MRPC 1.15A must still comply with the “eligible financial institution” criteria under MRPC 1.15(a)(2) to serve as a depository for IOLTA accounts. Thus, financial institutions must meet both the SBM “approved status” and the “eligible financial institution” status to hold IOLTA accounts. Forms and additional information regarding the TAON program are available on the SBM’s website at <http://www.michbar.org/opinions/TAON>. Forms and additional information regarding IOLTA accounts are available on the Michigan State Bar Foundation’s (“MSBF”) website at [www.msbf.org](http://www.msbf.org).

## Maintenance of the TAON program

### A. Financial Institution Submission Procedure for TAON Agreements

1. Financial institutions may deliver a fully executed TAON Agreement to the SBM by any of the following methods:
  - Email addressed to [TAON@mail.michbar.org](mailto:TAON@mail.michbar.org)
  - Facsimile to State Bar of Michigan, Professional Standards Division - TAON at 517-372-2716
  - First class mail or delivery to: State Bar of Michigan, Professional Standards Division – TAON, 306 Townsend Street, Lansing, MI 48933.
2. All notices or other communication from the financial institution to the SBM relating to the TAON program may be delivered to the SBM by any method described in paragraph A1. **Special note:** SBM approved participating financial institutions must submit overdraft reports to the GA not to the SBM. The contact information for the GA is: Grievance Administrator – TAON, 535 Griswold, Suite 1700, Detroit, MI 48226, phone (313) 961-6585, facsimile (313) 961-6786 (ATTN: TAON), email, [TAON@agcmi.com](mailto:TAON@agcmi.com).
3. The executed TAON Agreement will apply to all locations of the financial institution in Michigan and cannot be cancelled except on 120 days notice in writing to the SBM, delivered by a method described in paragraph A1 above.

### B. “Approved Status” Notification Procedure for Participating Financial Institutions

1. The SBM will advise the designated financial institution contact person within five (5) business days after receipt of the TAON Agreement, will send follow-up communication to the designated contact stating that:
  - a. the financial institution has obtained “approved status” and will be added to the Approved List as soon as practicable; or
  - b. the TAON Agreement is insufficient or other administrative issues prevent approval of the financial institution. Unless another time period is approved by the SBM, the financial institution must respond within ten (10) business days to correct the administrative deficiencies. Failure to timely respond may result in a delay in approval and may prevent placement of the financial institution’s name on the Approved List.
2. The Approved List is be posted on the SBM’s website at [http://www.michbar.org/opinions/TAON\\_list.pdf](http://www.michbar.org/opinions/TAON_list.pdf). The SBM will post the updated Approved List as often as practicable.



**C. General Notification About TAON**

1. The SBM publishes information on its website about the TAON rule, its requirements, guidelines developed by the SBM to assist financial institutions and member lawyers regarding the TAON program.
2. If the SBM becomes aware of new financial institutions doing business in Michigan with which it has not previously communicated regarding the TAON program, the SBM will seek a signed TAON Agreement from those institutions.

**D. Approved List Update Procedure**

1. The SBM will regularly post an updated Approved List as needed to add or remove financial institutions. The SBM will electronically notify the GA and the MSBF when an updated Approved List is posted.

**E. Annual Update of Contact Information for Financial Institutions**

1. On an annual basis, the SBM will contact “approved” financial institutions to obtain updated contact information, if any. Financial institutions have an ongoing duty as set forth in the TAON agreement to provide updated contact information to the SBM as it becomes available.

**F. Cancellation of TAON Agreement by Financial Institution**

1. A financial institution seeking to cancel a TAON Agreement must give a 120 day advance written notice to the SBM. The notice must be delivered in a manner described under paragraph A1.
2. At least 90 days before its approved status is terminated, the financial institution must notify all holders of lawyer trusts accounts, including both IOLTA and non-IOLTA lawyer trust accounts, that its approved status will be terminated. This notice must state the effective date that the financial institution’s approved status will be terminated.
3. The financial institution must deliver a copy of the notices to the SBM as they are issued.

**G. Termination of “Approved Status” by the SBM**

1. If a financial institution gives the SBM notice of cancellation, the SBM will provide written acknowledgment of the notice within five (5) business days after receipt and confirm the date that the financial institution will become unapproved and removed from the Approved List.
2. As soon as practicable after the effective date of termination, the SBM will post the updated Approval List and will provide notification to the GA and MSBF as previously described in these guidelines.

**H. Revocation of “Approved Status” by the SBM**

1. If the SBM becomes aware that a participating institution has not complied with its TAON Agreement, the SBM will contact the financial institution requesting that within ten (10) business days the financial institution provide in writing a full explanation of the reason for its noncompliance; written confirmation of corrective action that will allow full compliance going forward; and reconfirmation that the financial institution will comply with its TAON Agreement. Failure to timely respond may result in revocation of “approved status” and removal from the Approved List.
2. Upon receipt of the written, timely response by the financial institution or in the absence of a written, timely response by the financial institution, the SBM in its sole discretion may determine that: (1) the explanation provided was acceptable and compliance with its TAON Agreement was not an issue; (2) the explanation for noncompliance was acceptable and corrective action demonstrates full compliance by the financial institution with its TAON Agreement to maintain approved status; (3) the explanation for noncompliance was acceptable and the corrective action indicates a good faith effort at compliance, but that the financial institution should be placed on “provisional” approved status for a period of up to one year and required to respond to the SBM’s periodic requests for confirmation of continued compliance; (4) the explanation for noncompliance was unacceptable and the corrective action, if any, is insufficient and that the financial institution will be unapproved and removed from the Approved List in 45 days; (5) the explanation for noncompliance is unacceptable and a financial institution has engaged in a pattern of neglect or acted in bad faith in not complying with its TAON Agreement and that the financial institution will be unapproved and removed from the Approved List in 45 days; or (6) the financial institution has provided no response and that the financial institution will be unapproved and removed from the Approved List in 45 days.
3. The SBM shall provide written notice to the financial institution of its decision regarding noncompliance. The SBM’s decision regarding provisional approved status or revocation of “approved status” is final and not subject to challenge.
4. Within five (5) business days after issuing its decision, the SBM will notify member lawyers with trust accounts of the date that the financial institution’s “approved status” will be revoked and removed from the Approved List and advising the lawyers that they must move their trust accounts to a financial institution on the Approved List within 30 days.
5. The SBM will also post a notice on its website at <http://www.michbar.org/opinions/TAON> and send a link to the notice to the GA and the MSBF.
6. After the SBM revokes the “approved status” of a financial institution, the financial institution may not seek reinstatement to “approved status” for a period of six months after the effective date of the revocation of approval. Financial institutions revoked on



- grounds of bad faith or a pattern of neglect may not seek reinstatement to “approved status” for 12 months.
7. After the required nonparticipation period has expired, the financial institution may seek reinstatement to “approved status” by submitting a fully executed TAON Agreement, along with detailed information showing corrective action that resolved prior noncompliance resulting in revocation of its “approved status.”

**Questions may be directed to the following persons:**

Questions regarding these guidelines or the TAON program may be directed to Danon D. Goodrum-Garland, Professional Standards Division Investigative Counsel, at (517) 346-6333 or email at [dgarland@mail.michbar.org](mailto:dgarland@mail.michbar.org).

Questions regarding overdraft reports that must be submitted to the Grievance Administrator of the Attorney Grievance Commission may be directed to Rhonda Spencer Pozehl, Associate Counsel, at (313) 742-0248 or email at [TAON@agcmi.com](mailto:TAON@agcmi.com).

Questions regarding IOLTA accounts and “eligible financial institution” status may be directed to Linda Rexer, Executive Director of the Michigan State Bar Foundation, (517) 346-6400 or email at [Linda@msbf.org](mailto:Linda@msbf.org).