



TAON QUICK REFERENCE GUIDE

TEN FAST FACTS

Fact 1: MRPC 1.15A (Michigan Rule of Professional Conduct 1.15A), also known as the Trust Account Overdraft Notification (“TAON”) took effect on September 15, 2010. The TAON rule requires lawyers to keep their client and third person trust accounts in financial institutions approved by the State Bar of Michigan (“SBM”) to serve as a depository for lawyer trust accounts.

Fact 2: Financial institutions that submitted a completed Trust Account Overdraft Notification Agreement (“TAON Agreement”) to the SBM, committing to provide overdraft reports to the account holder and the Grievance Administrator (“GA”), received SBM approved status and have been placed on the Approved List of Financial Institutions (“Approved List”). Financial institutions not yet on the Approved List may still submit a completed form to obtain approved status. The TAON agreement that financial institutions must complete to obtain approved status is available at http://www.michbar.org/opinions/TAON_fillable.pdf.

Fact 3: The Approved List is posted on the SBM’s website at http://www.michbar.org/opinions/TAON_list.pdf. The SBM regularly updates the Approved List as necessary to communicate any changes to its members.

Fact 4: Lawyers must confirm that their financial institutions are on the Approved List. Lawyers holding trust funds in non-SBM-approved financial institutions had until November 15, 2010, to either assure that the financial institution attains SBM approved status or move their IOLTA and non-IOLTA accounts (as defined by MRPC 1.15(a)(3)–(4)) to a financial institution on the Approved List.

Fact 5: The TAON rule *does not* apply to lawyers’ general business and personal accounts, nor does it apply to brokerage accounts, certificates of deposit, or any other investment accounts where funds may not be withdrawn upon demand.

Fact 6: Lawyers’ IOLTA accounts, regardless of when opened, are automatically identified by approved financial institutions as trust accounts subject to the TAON Rule without further action by lawyers.

Fact 7: As of September 15, 2010, the account name of lawyers’ non-IOLTA accounts must include the term “trust” or “escrow.” This requirement applies to both pre-existing and subsequently opened non-IOLTA accounts. “Non-IOLTA account” is a term defined by MRPC 1.15(a)(4). The difference between a lawyer non-IOLTA account and IOLTA account is as follows: the net interest or dividend on non-IOLTA accounts is paid to the client; whereas, the interest and dividend on an IOLTA account is remitted to the Michigan State Bar Foundation. *See* MRPC 1.15(a)(4) and <http://www.msbf.org/iolta/IOLTAAttorneyBrochure102005.pdf> for information about when to use non-IOLTA accounts.

Fact 8: Lawyers must provide written notice to their approved financial institutions of their non-IOLTA accounts to permit those financial institutions to identify these accounts as lawyer trust accounts subject to the TAON rule. The form that lawyers should use is available at http://www.michbar.org/opinions/TA_notice_fillable.pdf. Lawyers must submit the original to the financial institution and a copy of the form to the SBM.

Fact 9: Approved financial institutions must submit overdraft reports identifying the (i) financial institution; (ii) account holder; (iii) account number; (iv) transaction item; and (v) amount of overdraft and date created and either the amount of the returned instrument or other dishonored debit and the date returned or dishonored, or the date of presentation for payment and the date paid. The overdraft reports are submitted to the Grievance Administrator at: Attorney Grievance Commission - TAON, 243 W. Congress Street, Suite 256, Detroit, MI 48826, facsimile (313) 961-5819 (ATTN: TAON), or E-mail, TAON@agcmi.com, and to the account holder, within five banking days. Failure to submit overdraft reports may result in termination of approved status, if the SBM, in its sole discretion, determines that noncompliance is deemed unacceptable and corrective measures insufficient.

Fact 10: Lawyers must continue to safeguard client and third-party funds held in trust to avoid all overdrafts to their IOLTA and non-IOLTA accounts.