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## IOTA OPERATIONS MANUAL

**This manual provides detailed information regarding interest and dividend requirements, operational, remittance and payment procedures for institutions eligible to hold IOTA accounts.**

### The IOTA Program

Under IOTA, all nominal or short-term client and third-person trust funds shall be deposited into interest or dividend-bearing financial products benefiting IOTA (IOTA Accounts). Client or third-person trust funds, which the lawyer or law firm determines **can** earn income for the client or third person in excess of the costs incurred to secure such income, shall not be deposited into an IOTA account. Although the Florida Supreme Court requires all nominal or short-term client or third-person trust funds to be deposited into IOTA accounts, lawyers or law firms may continue to invest client or third-person trust funds that are not nominal or short-term for the benefit of individual clients or third persons.

In determining whether a client's or third person's funds can earn income in excess of costs to secure the income, the lawyer or law firm shall consider the following factors:

- (1) The amount of the funds to be deposited;
- (2) The expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;
- (3) The rates of interest or yield at eligible institutions where the funds are to be deposited;
- (4) The cost of establishing and administering non-IOTA accounts for the client's or third person's benefit, including service charges, the costs of the lawyer's services, and the costs of preparing any tax reports required for income accruing to the client's or third person's benefit;
- (5) The capability of eligible institutions, lawyers or law firms to calculate and pay income to individual clients or third persons;
- (6) Any other circumstances that affect the ability of the client's or third person's funds to earn income for the client or third person in excess of the costs incurred to secure such income.

The lawyer or law firm should review its IOTA account at reasonable intervals to determine whether changed circumstances require further action with respect to the funds of any client or third person.

IOTA pays eligible institutions' reasonable service charges or fees, if any, in connection with the IOTA account plus a separate IOTA handling fee, if any (see *Permissible Service Charges and Fees* below).

Only financial products approved by the Florida Supreme Court for IOTA accounts are permitted:

- ❖ Interest-bearing Demand Deposit Checking Accounts
- ❖ REPO's collateralized by United States Government Securities
- ❖ Government Money Market Funds with total assets of at least \$250 million

## **How IOTA Funds are Used**

The Foundation's volunteer board of directors allocates IOTA funds, together with donations from Florida lawyers, law firms, foundations, corporations, and other individuals, annually to the three Florida Supreme Court approved uses of IOTA funds:

- ❖ Free civil legal assistance to the poor – *Support local legal aid programs in every Florida county and represent one third of all support for programs providing legal assistance to low-income individuals and families. Foundation legal assistance for the poor grants also support special children's legal services initiatives, law school loan repayment assistance for lawyers at Foundation-funded legal aid programs, and two-year post law graduate public interest fellowships.*
- ❖ Improvements in the administration of justice – *Start-up or seed money for projects: 1) for the improvement in the operation and management of the court system; 2) the improvement and reform of the criminal, civil and juvenile justice systems; 3) public education and understanding about the law, including law related education; 4) promotion and support for public interest legal representation; and 5) support for voluntary bar association community service initiatives.*
- ❖ Loans and scholarships for law students – *IOTA funds provide stipends to students at Florida law schools for public service work and for summer internships at IOTA legal aid grantee organizations.*

## **Interest and Dividend Requirement for Institutions Eligible to Hold IOTA Accounts**

Participation in the IOTA program is voluntary for banks, savings and loan associations, and brokerage houses. However, institutions which choose to offer and maintain IOTA accounts must:

- ❖ **Pay the highest interest rate or dividend generally available from the institution to its non-IOTA account customers when IOTA accounts meet or exceed the same minimum balance or other account eligibility qualifications, if any.**

*In determining the highest interest rate or dividend generally available from the institution to its non-IOTA accounts, eligible institutions may consider factors, in addition to the IOTA account balance, customarily considered by the institution when setting interest rates or dividends for its customers, provided that such factors do not discriminate between IOTA accounts and accounts of non-IOTA customers, and that these factors do not include that the account is an IOTA account. 5-1.1(e)(5) (A) and (B) Rules Regulating The Florida Bar*

## **How Does the Interest or Dividend Requirement of the Rule Operate?**

*For IOTA accounts of \$100,000 and higher:*

In sweep accounts, with a REPO as the investment option, or qualified government money market funds at institutions which make such products available to their non-IOTA account customers. For REPO's, the Foundation will work directly with the institution in setting the non-interest bearing "target" or "compensating" balance, based on the institution's monthly account analysis statements. The Foundation, not the lawyer or law firm, will be responsible for monitoring the adequacy of the target balance. The Foundation will provide the institution a letter to be sent to affected lawyers and law firms along with the sweep account and investment election documents for completion by the signatories listed on the IOTA account. The letter will explain the amended IOTA rule and offer the Foundation's assistance in answering any questions lawyers or law firms may have about the change in their account status.

Or, should the financial institution choose to maintain the collected balances in the IOTA account on the operating portfolio of the financial institution, the equivalent of the REPO or government money market fund interest or dividend rate may be paid directly on the DDA account.

*Lawyers or law firms choosing to use government money market funds offered by brokerage houses to increase revenue for IOTA's charitable programs should contact the Foundation for further information and the names of eligible institutions.*

*For IOTA accounts of less than \$100,000:*

In demand deposit checking accounts at current interest rates, or higher rates for qualifying IOTA accounts at institutions which pay interest rates based on the size of the account balance.

**What if an institution doesn't offer a sweep product, qualified government money market fund, or pay checking account**

### **interest rates based on balance size?**

Then it is unaffected by the interest or dividend requirement of the IOTA Rule. The Rule only requires institutions to treat IOTA accounts in parity with accounts of its other, similarly situated non-IOTA customers.

### **REPO Requirements for IOTA Accounts**

Repurchase agreements for IOTA accounts must be fully collateralized by United States Government Securities. In addition, for IOTA Account REPO's:

1. The institution may not substitute other securities;
2. The institution is required to keep the securities segregated at all times in the name of the law firm IOTA Account owner;
3. The "Security Interest" granted by the institution in the transferred securities must be pledged to the law firm IOTA account owner; and
4. The "advisee" for the REPO collateral confirmations required by the Office of the Comptroller of the Currency must be the Foundation -- NOT THE lawyer/law firm. The confirmations should be mailed to the Foundation at P.O. Box 1553, Orlando, FL 32802-1553. Or, confirmations can be sent in electronic file format. The Foundation can accept a single confirm with the information combined or each confirm bound in bulk.

REPO Interest must be posted to an account established by the institution in the name of The Florida Bar Foundation, Inc. and which carries the Foundation Taxpayer Identification Number of 59-1004604 -- NOT TO the individual enrolled lawyer/law firm DDA IOTA checking account.

### **Remitting and Reporting on IOTA Accounts**

#### **Remittance Information**

Although IOTA Account remittance reports must provide the following information for each IOTA account each month, the format of remittance reports may be, that most easily prepared by the institution:

| 8. Permissible Service Charges and Fees |                   |                    |         |              |                   |                         |              |                  |  |                      |                 |
|---|-------------------|--------------------|---------|--------------|-------------------|-------------------------|--------------|------------------|--|----------------------|-----------------|
| 1. Account Name                         | 2. Account Number | 3. Earnings Period | 4. Rate | 5. Rate Type | 6. Gross Interest | 7. Sweep Target Balance | A. Sweep Fee | B. Activity Fees | C. Monthly DDA Account Maintenance Fee | D. IOTA Handling Fee | 9. Net Interest |

1. **Account Name** - as it appears on the DDA account (used by the Foundation to post monthly remittance information).
2. **Account Number** - as assigned by the institution to the DDA account (used by the Foundation to post monthly remittance information).
3. *Earnings Period* - the time period during which reported REPO interest was earned (used by the Foundation to check date remittance is made and in various analyses).
4. **Rate** - applied during Earnings Period.
5. Rate Type:
  - ICR*            *Interest Checking Rate*
  - TICR*        *Tiered Interest Checking Rate*
  - RIR*         *REPO Interest Rate*
6. *Gross Interest* (dollar amount) - paid for the Earnings Period (used in revenue projections and in various analyses).
7. *Sweep Account Target Balance* - held in DDA account as a compensating balance (used to calculate IOTA account net yield).
8. *Permissible Service Charges and Fees* - which can be deducted from IOTA account/REPO interest (used to monitor adequacy of Target Balance in offsetting total *permissible* IOTA Account monthly service charges/fees as follows):
  - A. Sweep Fee (dollar amount)
  - B. Activity Fees (dollar amounts):
    - Per check charge
    - Per deposit charge

➤ Federal deposit insurance fee

Used to monitor if IOTA Accounts become unproductive and, therefore, no longer eligible as a Sweep account, and for verification of institutional compliance with the Foundation's Reasonable Service Charges and Fees Policy.

C. *Monthly DDA Account Maintenance Fee* -- if also charged to non-IOTA account customers with the same balances (used to calculate IOTA account net yield). *This fee should be reported separately from activity fees.*

D. *IOTA Handling Fee* -- for remitting and reporting on IOTA accounts (used to calculate IOTA Account net yield). *This fee should be reported separately from activity fees.*

9. *Net Interest* – paid for the Earnings Period (used to balance remittance reports and calculate IOTA account net yield). *This amount should be reported on a per-IOTA account basis.*

## **Tax Reporting**

For regular IOTA Accounts and REPO's, IRS Form 1099 Reports of Interest should be suppressed. If the Form 1099 cannot be suppressed, regular IOTA Account and REPO interest must be reported in the name and Taxpayer Identification Number of and mailed directly to The Florida Bar Foundation, Inc. at 875 Concourse Parkway South, Suite 195, Maitland, FL 32751.

## **Payment of Interest, Submission of Remittance Reports, and Policy Prohibiting Negative Netting**

Interest payments for IOTA Account checking and REPO interest may be combined or made separately. However, financial institutions may not deduct permissible service charges or fees, assessed in excess of interest earned on one IOTA account, from interest earned on another IOTA account (negative netting).

Financial institutions have several options to deal with the excess service charges no longer paid by the Foundation: 1) maintain the account and write off or absorb any uncollected charges; 2) maintain the account and accrue charges, offsetting them against future interest earnings, 3) pass these costs for maintaining the account to the lawyer or law firm customer's operating account, 4) require the lawyer or law firm to maintain a reasonable balance in the IOTA account to cover the excess charges/fees (as permitted by 5-1.1(a)(1) Rules Regulating The Florida Bar – charges/fees may not be deducted from clients' funds held in the IOTA account), or 5) close the account.

The Foundation encourages institutions to remit interest via wire transfer and submit remittance reports via electronic file. However, payment may be made by ACH or Official Check and remittance reports may continue to be faxed or mailed.

Remittance reports preferably will summarize monthly activity for the individual enrolled lawyer/law firm DDA IOTA account. However, REPO interest reports may, if provided via electronic file, give the daily detail for each IOTA account if doing so is operationally preferable for the institution.

## **Assistance Available from the Foundation**

The Foundation is available to assist institutions to comply with the IOTA Rule:

- ❖ Defray reasonable up-front cost to modify sweep product reporting and remittance processes for IOTA;
- ❖ Provide detailed reporting and remittance specifications, including free technical support;
- ❖ Assist in identifying IOTA accounts to be placed in higher-paying products; and
- ❖ Coordinate communications and assistance to affected lawyers and law firms to move IOTA DDA accounts to higher-paying products.

**For assistance or additional information, please contact the Foundation's IOTA Operations Manager:**

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