

NOTICE TO THE BAR

Re: IOLTA & Implementation of Reasonable Return Standard -- Further Information

On June 15, 2005, the Supreme Court issued a Notice to the Bar on the implementation of the Reasonable Return Standard that the Court adopted in February of 2004. Shortly after publication of the Notice, leadership in the Assembly asked to meet with the Chief Justice to voice concerns about the standard. The Chief Justice agreed to the meeting, which included representatives from both houses of the Legislature, the Division of Banking and Insurance (DOBI), and IOLTA's Executive Director. As a result of the meeting, the Supreme Court is creating a small Working Group that will meet over the summer and report back to it no later than the end of September.

While the Working Group is undertaking its assigned task, IOLTA will complete its non-compliance notification process for those few financial institutions that are not currently meeting the standard set in 2004. As set forth in the June 15, 2005, Notice to the Bar, the remaining steps include the following:

1. One month prior to a financial institution's reaching the one-year mark [that is, one year after notice of the adopted standard], IOLTA is to send a letter reminding the bank that a) it is not in compliance, b) what must be done to come into compliance, c) absent compliance, the bank's name will be reported to the Supreme Court, and d) the report to the Court will include IOLTA's recommendation that the bank's status as an authorized depository be withdrawn unless and until it comes into compliance.
2. If the financial institution does not come into compliance in a timely manner, IOLTA will forward the name and pertinent specifics to the Clerk of the Supreme Court and the Office of Attorney Ethics. On receipt of IOLTA's report, the Clerk will send a Final Notice to the financial institution indicating that if it does not come into compliance, as certified by IOLTA, within thirty days of the Notice, the bank's name will be withdrawn from the list of approved depositories for attorney trust accounts, and notices will be sent to all affected attorneys by the Office of Attorney Ethics. If a financial institution's authorization is withdrawn by the Court, attorneys will have up to sixty days from that action within which to transfer their accounts to a Court-authorized financial institution.

Although IOLTA is to complete the tasks assigned to it in Paragraphs 1 and 2, above, the Supreme Court has agreed to defer the issuance of any Final Notice by the Clerk under Paragraph 2 until the Court has considered the report and recommendations of the Working Group, which are due by September 30, 2005.

For the Court:

Stephen W. Townsend, Esquire
Clerk of the Supreme Court

Date: July 8, 2005

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