



BANK FAILURES & TRUST ACCOUNTS: WHAT ARE A LAWYER'S RESPONSIBILITIES?

In light of recent bank failures, it is important for lawyers and law firms to understand their obligations under the Kentucky Rules of Professional Conduct and how FDIC insurance applies to trust accounts, particularly IOLTA accounts holding funds for multiple clients.

Kentucky Rule of Professional Conduct 1.15, Comment 1 informs lawyers that they “should hold property of others with the care required of a professional fiduciary.” Among the many duties arising from the lawyer’s role as a professional fiduciary is taking reasonable steps to ensure that client and third-party funds held by the lawyer are fully insured in the event of bank failure.

Per the [FDIC](#), trust accounts, including IOLTA accounts, are treated as fiduciary accounts. For purposes of FDIC insurance, the FDIC requires (1) “the fiduciary nature of the account...be disclosed in the bank’s deposit account records” and (2) “name and ownership interest of each owner must be ascertainable from the deposit account records of the insured bank or from records maintained by the agent.” As long as FDIC requirements are satisfied, each client is protected up to the standard deposit insurance limits, which is currently \$250,000 per client per financial institution. If a client has funds in other accounts with the bank where the lawyer holds entrusted funds, that may affect whether the funds the lawyer holds for the client are insured to the deposit insurance limit.

Click [here](#) to read more about FDIC guidance on deposit insurance.

Further questions related to a lawyer’s professional responsibility when acting as a fiduciary should be directed to a member of the [KBA Ethics Hotline](#).