

## **Out-of-state lawyers: Trust account requirements**

The Wisconsin Supreme Court's trust account rule, SCR 20:1.15, now permits lawyers who primarily practice in another state to use the trust account that they maintain in that state for their Wisconsin legal matters, so long as the state in which they primarily practice has overdraft notification requirements. As a result, lawyers who meet these requirements do not have to file an Overdraft Notification Agreement with the Office of Lawyer Regulation. This change can be found in SCR 20:1.15(b)(2), which states, in pertinent part, as follows:

(2) **Identification and location of account.** . . . Each trust account shall be maintained in a financial institution that is authorized by federal or state law to do business in Wisconsin and that is located in Wisconsin or has a branch office located in Wisconsin and which agrees to comply with the overdraft notice requirements of sub. (h). **A trust account may be maintained at a financial institution located in the jurisdiction where the lawyer principally practices law if that jurisdiction has an overdraft notification requirement.** (Emphasis added).

As of July 1, 2017, the only states that do not require overdraft reporting on lawyer trust accounts are: Mississippi, South Dakota and Texas.

For example, if a lawyer is licensed in Minnesota, primarily practices in Minnesota, and maintains a trust account in that state, the lawyer does not have to establish a trust account at a Wisconsin bank or at a bank that has a branch in Wisconsin in order to accept funds in trust relating to a Wisconsin legal matter. Furthermore, the lawyer does not have to file an Overdraft Notification Agreement with the Office of Lawyer Regulation for that out-of-state trust account.

However, if a lawyer is only licensed in Wisconsin, and is practicing federal law in another state, the lawyer must maintain a Wisconsin trust account or a trust account at a bank that has a branch in Wisconsin and must file an Overdraft Notification Agreement with the Office of Lawyer Regulation and an IOLTA Agreement with the Wisconsin Trust Account Foundation.