



# Banking 101: Assessing Legal Bank Accounts

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**I have had many attorneys reach out to me seeking advice on how to best protect their firm's bank accounts in light of the recent headlines related to a small number of institutions in the banking sector.**

As a banker who has advised attorneys and law firms for years, I appreciate the opportunity to help educate anyone seeking to understand what to look for in a solid financial institution. With that in mind, below are a few tips that any attorney or law firm may want to consider when selecting a financial institution.

## Conduct Due Diligence

Every law firm's financial officer or partner is responsible for doing homework on the financial institution that holds the firm's operating, savings, and IOLTA accounts. On a regular basis, it is prudent for law firms to review the publicly available information about their bank in these critical areas:

- Liquidity;
- Capital Ratios;
- Non-Performing Loans; and
- Bank Deposit Rating.

These factors will illustrate the health of the financial institution you are working with. Your banker should be able to help you find this information and explain each area's importance. You may also choose to compare the information with other financial institutions.

## Safeguard Operating and Money Market Accounts

The Federal Deposit Insurance Corporation (FDIC) insures up to \$250,000, also known as the standard maximum deposit insurance amount (SMDIA), of a customer's deposit accounts in each insurable capacity at an FDIC-insured institution. However, many firms have balances in their operating or money market accounts that exceed the SMDIA, which is where reciprocal deposit programs, such as IntraFi Network Deposits, can help. IntraFi Network Deposits<sup>1</sup> allow depositors to access multi-million-dollar FDIC insurance on funds placed in demand deposit accounts, money market deposit accounts and Certificates of Deposits. When making a large deposit at bank who participates in IntraFi network, those funds are placed into accounts at other FDIC-insured banks in the IntraFi network in increments of less than SMDIA, so that both principal and interest are eligible for FDIC protection.

## Maintain Thorough IOLTA Records

As attorneys, you know IOLTA trust accounts are an essential and required aspect of the legal profession. For purposes of FDIC deposit insurance, IOLTAs are treated as fiduciary accounts where the deposit insurance is not applied at the fiduciary level (firm) level but passes through to the ultimate owner (client) of the funds based on the deposit records of the bank or, in some cases, the fiduciary.

Consistent with the Nevada Rules of Professional Conduct and to evidence ownership of the funds held in an IOLTA, I encourage all attorneys and law firms to keep an updated list of the clients for whom they are holding funds in their IOLTAs. Should it ever be required, each named client whose funds are in an IOLTA is insured up to \$250,000, subject to the client holding any other accounts at that bank, through the FDIC.<sup>2</sup> Due to the requirements around where an IOLTA may be established and to whom interest may be paid, placement of Nevada IOLTA funds through deposit placement programs such as IntraFi is not a viable option. Nevada Supreme Court Rule 217 requires that IOLTA funds be held in a state bar-approved bank, credit union, or savings and loan association authorized by federal or state law to do business in Nevada, located in Nevada, and insured by the FDIC. A list of Nevada's IOLTA-eligible banks can be found at: <https://nvbar.org/for-lawyers/resources/iolta/participating-financial-institutions/>.

## Establish a Strong Relationship with your Banker

A reliable banking relationship should be a priority for anyone in the legal industry. Specific reporting requirements, regulations, and banking safeguards are unique to the industry. Therefore, an experienced banker can

help you or your firm comply with those financial requirements. Even more, an experienced banker can help anticipate the needs of your firm and act as an advisor on banking and financing issues or challenges. You should establish a relationship with your banker where you regularly communicate to help anticipate your firm's needs and better maneuver any challenging times.

Another key benefit to your law firm can be to build a relationship with a financial institution that is committed to the community and supports the state's legal profession. Every attorney deserves a banker committed to creating a banking relationship built on trust and honesty, and who will do what is right for each firm.

Finally, I remind my clients that recent events involved a few institutions affected by unique circumstances and do not reflect the health of the greater banking industry.

### ENDNOTES:

1. Placement of funds through IntraFi Network Deposits is subject to the terms, conditions, and disclosures in the service agreements, including the Deposit Placement Agreement (DPA). Limits apply and customer eligibility criteria may apply. Program withdrawals may be limited to six per month for funds placed in MMDAs. Although funds are placed at destination banks in amounts that do not exceed the FDIC SMDIA, a depositor's balances at the relationship institution that places the funds may exceed the SMDIA (e.g., before settlement for a deposit or after settlement for a withdrawal) or be ineligible for FDIC insurance (if the relationship institution is not a bank). As stated in the DPA, the depositor is responsible for making any necessary arrangements to protect such balances consistent with applicable law. If the depositor is subject to restrictions on placement of its funds, the depositor is responsible for determining whether its use of IntraFi Network Deposits satisfies those restrictions. ICS® and CDARS® are registered service marks of IntraFi Network LLC.
2. Additional information on deposit insurance, including pass-through insurance, is available on the FDIC's website at <https://www.fdic.gov/resources/deposit-insurance/>.

\* Bank of Nevada is a division of Western Alliance Bank. Member FDIC.

SARAH GUINDY is Senior Director of Commercial Banking at Bank of Nevada, a division of Western Alliance Bank. Guindy leads the Juris banking team, providing tailored banking solutions and trusted advice to attorneys, law firms, and the legal community. Guindy has more than 30 years of banking experience and is also a trustee on the Nevada Bar Foundation. The information provided in this article does not nor is it intended to constitute legal advice. Further, the views expressed are those of Guindy in her individual capacity and not those of the bank.

