

## **TITLE 2. RIGHTS AND RESPONSIBILITIES OF LICENSEES**

### **DIVISION 1.5. CLIENT TRUST ACCOUNT PROTECTION PROGRAM**

*Adopted February 21, 2025.*

#### **Rule 2.4 Definitions**

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this rule shall govern the interpretation of this division.

- (A) An “annual self-assessment” is a survey created by the State Bar about trust accounting duties and practices and includes, but is not limited to, questions and affirmations regarding a licensee’s trust account management practices, recordkeeping, and compliance with applicable law.
- (B) The “Client Trust Account Protection Program” or “CTAPP” is the program established under rule 9.8.5 of the California Rules of Court and this division to facilitate the State Bar’s detection and deterrence of misconduct related to trust accounts.
- (C) A “compliance review” is a review, conducted by the State Bar or its agents, of compliance with applicable law regarding the safekeeping of funds entrusted by clients and others and contemporaneous recordkeeping.
- (D) A “designated licensee” is the solo practitioner when a trust account is established or maintained by a solo practitioner, or, when a trust account is established or maintained by a firm, the licensee designated by the firm pursuant to subdivision (d) of section 6091.3 of the Business and Professions Code.
- (E) A “firm” means a law partnership; a professional law corporation; a lawyer acting as a sole proprietorship; an association authorized to practice law; or lawyers employed in a legal services organization or in the legal department, division or office of a corporation, government organization, or other organization.
- (F) An “investigative audit” is an expanded audit of a licensee’s trust accounting performed by the State Bar based upon the outcome and findings of a compliance review.
- (G) “Law” includes state law, case law, the California Rules of Court, and the Rules of the State Bar of California, which includes the California Rules of Professional Conduct.
- (H) A “mandatory corrective action plan” is a plan issued by the State Bar that identifies one or more violations of law committed by a licensee regarding the safekeeping of funds entrusted by clients or others or any related obligations and requires the licensee to implement one or more corrective actions by a specific date.

- (I) “Receipt” of a document the State Bar sends a licensee is deemed to be the following, based on the method of delivery; if multiple methods of delivery are used, the earliest applicable date applies:
  - (1) the date of electronic transmission;
  - (2) five days from the date of mailing to a California address;
  - (3) 10 days from the date of mailing to an address elsewhere in the United States;
  - (4) 20 days from the date of mailing to an address outside the United States;
  - (5) the date the State Bar physically delivers a document, by personal service or otherwise.
- (J) The “reportable time period” for a licensee who must pay their annual license fees under rule 2.11 is the calendar year immediately preceding the licensee’s due date for paying their annual license fees. The “reportable time period” for a new licensee who must pay their initial license fees under rule 2.12 is from their date of admission through 15 days before the due date for payment of their initial fees under rule 2.12, or, if the due date to pay their initial fees is in the year following their date of admission, through December 31 of the year they were admitted.
- (K) A licensee is “responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct” within the meaning of this rule if, at any point during the reporting period, they acted as a signatory on a trust account, exercised managerial or primary administrative oversight for a trust account, or were otherwise responsible for complying with any of the requirements or prohibitions in rule 1.15 of the Rules of Professional Conduct. The requirements and prohibitions in rule 1.15 are not limited to banking and recordkeeping duties and include, for example, the responsibility for giving notice to the client or other person that funds were received on behalf of the client or other person and the duty to identify and discharge liens.
- (L) A “trust account” is any bank account or accounts opened to receive or hold funds in accordance with rule 1.15(a) of the Rules of Professional Conduct, regardless of the amount of funds in the account, and includes, but is not limited to, any IOLTA account under subdivision (a) of section 6211 of the Business and Professions Code where the interest is paid to the State Bar, and any account under subdivision (b) of section 6211 of the Business and Professions Code where the interest is payable to a client or other person.

*Rule 2.4 adopted effective February 21, 2025.*

## **Rule 2.5 Annual reporting, account registration and self-assessment completion requirements**

### **(A) CTAPP Reporting Requirements**

Unless a licensee is exempt under paragraph (L), a licensee must annually comply with the following reporting requirements:

- (1) **Annual Trust Account Certification**—A licensee must annually (a) report whether or not, at any time during the reportable time period, they were a licensee responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct and (b) if they were a licensee responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, then those licensees must also certify that they are knowledgeable about, and in compliance with, applicable rules and statutes governing a trust account and the safekeeping of funds entrusted by clients and others;
- (2) **Annual Trust Account Registration**—A licensee who was responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must, annually, register each and every trust account by identifying the bank routing number; bank name; bank account number; bank account name; account opened date; account closed date, if applicable; account balance on a specified date; the full name and license number of the designated licensee; and other information as required by the State Bar and in a manner prescribed by the State Bar for such reporting. The requirement to provide to the State Bar the full name and license number of the designated licensee commences January 1, 2026. A licensee will be considered in compliance with this subparagraph if the licensee's firm submits account registration information on behalf of one or more licensees affiliated with the firm that identifies the licensee as one on whose behalf the registration information is submitted; and
- (3) **Annual Self-Assessment**—A licensee responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must complete an annual self-assessment and report the completion of the self-assessment in a manner prescribed by the State Bar for such reporting.

### **(B) CTAPP Reporting Deadline**

The deadline for submitting the information to be annually reported under paragraph (A) of this rule is the licensee's due date for paying their license fees under Title 2, Division 2, rules 2.11 or 2.12 of the State Bar Rules.

(C) CTAPP Reporting Required Even if a Licensee is Not Responsible for Trust Funds at the Time of Reporting

The annual reports required under paragraph (A)(1) and paragraph (A)(3) of this rule must be submitted when a licensee, at any time during the reportable time period, has been a licensee responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, and this includes circumstances where the licensee at the time of submitting their report is no longer responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct. The registration of a trust account under paragraph (A)(2) of this rule also is required even if a licensee is not responsible for funds held in the trust account at the time of reporting so long as the licensee remains in practice with the firm that controls the trust account. A licensee is not required to register a trust account controlled by a firm with which the licensee no longer practices.

(D) CTAPP Reporting Required Even if a Licensee is Not Responsible for Entrusted Funds

Under paragraph (A)(1), a licensee who is not exempt under paragraph (L) must report whether or not, at any time during the reportable time period, they were a licensee who was responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct. To comply with paragraph (A)(1), a licensee who was not responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must submit a report indicating that fact.

(E) Designated Licensee Duties

The designated licensee shall be the primary account holder or signatory on the trust account and shall be responsible for performing or supervising the monthly reconciliation of the trust account. The designated licensee is also responsible for answering any questions that other licensees in the firm may have about the trust account. A licensee can be the designated licensee for more than one trust account. The fact that a licensee has been assigned by a firm as the designated licensee does not absolve other licensees of their duties under the Rules of Professional Conduct or the reporting requirements of this division.

(F) Furnishing Designated Licensee Information to Financial Institutions in Which Trust Accounts Are Held

- (1) Commencing January 1, 2026, upon establishment of a new trust account, a licensee must serve a completed State Bar Notice To Financial Institution form on the financial institution pursuant to section 684.115 of the Code of Civil Procedure. If the trust account is established by a firm, the firm must assign a firm member who is a current licensee to be the designated licensee and include their information on the State Bar Notice to Financial Institution form.
- (2) For trust accounts existing prior to January 1, 2026, a licensee must, on or before July 1, 2026, serve a completed State Bar Notice To Financial Institution form on

the financial institution pursuant to section 684.115 of the Code of Civil Procedure. If the trust account was established by a firm, the firm must assign a firm member who is a current licensee to be the designated licensee and include their information on the State Bar Notice to Financial Institution form.

- (3) Commencing January 1, 2026, within 30 days of a designated licensee becoming inactive with the State Bar, becoming not eligible to practice law, or ceasing to be employed by or in practice with a firm, the designated licensee must close the trust account or the remaining licensees in practice with the firm must assign a new designated licensee and serve a new, completed State Bar Notice To Financial Institution form on the financial institution pursuant to section 684.115 of the Code of Civil Procedure.

(G) Noncompliance

Noncompliance with the requirements of this rule is failure to:

- (1) satisfy the requirements of paragraphs (A), (E), or (F) of this rule; or
- (2) pay fees for noncompliance.

(H) Notice of CTAPP Reporting Noncompliance

A licensee who is sent a notice of noncompliance with any reporting required by this rule must comply as instructed in the notice or be involuntarily enrolled as inactive. An inactive licensee is not eligible to practice law.

(I) Enrollment as Inactive for Noncompliance

A licensee who fails to comply with a notice of CTAPP reporting noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required.

(J) Reinstatement Following Noncompliance

Enrollment as inactive for CTAPP reporting noncompliance terminates when a licensee submits proof of compliance and pays noncompliance and reinstatement fees.

(K) Fees for Noncompliance

Fees for noncompliance with any of the requirements in paragraph (A), including a reinstatement fee to terminate CTAPP inactive enrollment, are set forth in the Schedule of Charges and Deadlines.

(L) Licensees Who are Exempt from Compliance With this Rule

- (1) Until December 31, 2025, the following category of licensees are exempt from compliance with the reporting requirements in paragraph (A):
  - (a) A licensee who was not on active status for the entirety of the reportable time period; or
  - (b) A licensee who is not entitled to practice law at the time of the reporting deadline for any reason other than voluntary inactive enrollment.
- (2) On and after January 1, 2026, a licensee who was on voluntary inactive status for the entirety of the reportable time period is exempt from the reporting requirements in paragraph (A).

*Rule 2.5 adopted effective January 1, 2023; amended effective December 1, 2023; amended effective February 21, 2025.*

**Rule 2.6 Compliance reviews and investigative audit requirements**

As authorized by rule 9.8.5 of the California Rules of Court, a licensee, if selected by the State Bar, must comply with and complete a trust account compliance review, investigative audit, and any requirements of a mandatory corrective action plan resulting from the findings of the compliance review or investigative audit. If a licensee is selected for a compliance review or investigative audit, all licensees at the licensee's firm must cooperate with requests for information, requests for responses to questions, and must comply with any mandatory corrective action plan, as applicable, under this rule.

(A) Compliance Review Requirements

The scope of a compliance review will encompass at least one year of trust account activity. If selected for compliance review, a licensee must:

- (1) within 30 days of receipt of a notice of selection for compliance review from the State Bar:
  - (a) report to the State Bar the name of the State Bar-approved certified public accountant selected to perform the compliance review at the licensee's expense, in a manner specified by the State Bar;
  - (b) provide any trust account records requested in the notice of selection, in the manner specified by the State Bar;
  - (c) if not the designated licensee, as defined in rule 2.4, provide the names, State Bar license numbers, current physical addresses, and current email addresses of the designated licensee for each and every firm trust

account in lieu of providing the information required under subparagraphs (a) and (b);

- (d) if there is no designated licensee, provide the names, State Bar license numbers, current physical addresses, and current email addresses of the primary account holder or signatory for each and every firm trust account and the licensees responsible for performing or supervising the monthly reconciliation of each and every firm trust account in lieu of providing the information required under subparagraphs (a), (b), and (c);
- (2) cooperate with and respond completely to all questions and requests for additional documentation from the State Bar or the State Bar-approved certified public accountant regarding all transactions and records required to demonstrate compliance with applicable law regarding the safekeeping of funds entrusted by clients or others and any related obligations; and
- (3) prior to completion of the compliance review and after all records have been provided to the State Bar or State Bar-approved certified public accountant, as applicable, provide a signed statement of representations on a form provided by the State Bar.
- (4) within 14 days of the completion of the compliance review, submit to the State Bar an acknowledgement of receipt of any findings, which may include areas of deficiency.

(B) Investigative Audit Requirements

The State Bar may identify a licensee to participate in an investigative audit performed by the State Bar based upon a finding during a compliance review. The scope of an investigative audit will encompass at least three years of trust account activity. If selected for an investigative audit, the licensee must:

- (1) within 14 days of receipt of a notice of selection for investigative audit from the State Bar, provide any trust account records requested in the notice of selection, in the manner specified by the State Bar;
- (2) cooperate with and respond completely to all questions and requests for additional documentation from the State Bar regarding all transactions and records required to demonstrate compliance with applicable law regarding the safekeeping of funds entrusted by clients or others and any related obligations;
- (3) if entrusted funds are held in an account other than a trust account, produce all records related to such non-trust account that are in the direct or indirect control of the licensee subject to the audit; and

- (4) prior to completion of the investigative audit and after all records have been provided to the State Bar, provide a signed statement of representations on a form provided by the State Bar.

(C) Mandatory Corrective Action

If, during the compliance review or investigative audit, a possible violation of law is identified, the State Bar may issue a mandatory corrective action plan. The designated licensee and any other licensee at the firm identified by the State Bar must implement the mandatory corrective action plan and submit verification to the State Bar of compliance with the mandatory corrective action plan in a manner and by the time designated by the State Bar.

(D) Extensions

The designated licensee, or any licensee identified under paragraph (A)(1)(d) of this rule, may request a 14-day extension to the due date for providing the information or records required under paragraphs (A)(1), (A)(4), and (B)(1) of this rule. Any request made pursuant to this subdivision must be provided in writing and explain why the extension request is being sought. The request must be received by the State Bar at least five days prior to the due date for providing the information or records. The State Bar may grant the extension if the State Bar determines, in its sole discretion, that the licensee has provided evidence of good cause necessitating the extension of time to provide the required information or records to the State Bar or its agents.

(E) Confidentiality of Records

Any information, records, or communications provided under this rule shall remain confidential unless disclosure by the State Bar or its agents is required by law or to fulfill its licensing, regulatory, and disciplinary functions, including, but not limited to, investigation or formal proceedings concerning alleged misconduct of a licensee, limited liability partnership, or law corporation or the disclosure of alleged misconduct under section 6044.5 of the Business and Professions Code.

(F) Noncompliance

A licensee is deemed to be noncompliant with this rule if they fail to:

- (1) comply with any of the compliance review or investigative audit requirements of this rule or section 6091.4 of the Business and Professions Code;
- (2) provide a timely response, as reasonably requested by the State Bar or its agents, to questions or requests for additional information or documents regarding records subject to a compliance review or investigative audit under this rule in a complete and accurate manner; or



- (3) comply with a mandatory corrective action plan.

If a licensee is deemed noncompliant with this rule, any attorney with supervising or managerial responsibilities over the licensee may also be deemed noncompliant with this rule.

(G) Referral for Noncompliance

A licensee may be referred to the Office of Chief Trial Counsel for failure to comply with applicable law regarding the safekeeping of funds entrusted by clients or others or any related obligations, including, but not limited to, section 6091.4 of the Business and Professions Code, the California Rules of Court, and the California Rules of Professional Conduct.

*Rule 2.6 adopted effective February 21, 2025.*