Billing Code: 7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

RIN: 3133-AE49

Share Insurance and Appendix

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) proposes to amend its share insurance regulations to implement statutory amendments to the Federal Credit Union Act (FCU Act) resulting from the recent enactment of the Credit Union Share Insurance Fund Parity Act (Insurance Parity Act). The statutory amendments require NCUA to provide enhanced, pass-through share insurance for interest on lawyers trust accounts (IOLTA) and other similar escrow accounts. As its name

implies, the Insurance Parity Act ensures that NCUA and the Federal Deposit Insurance Corporation (FDIC) insure IOLTAs and other similar escrow accounts in an equivalent manner.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments by any of the following methods (**Please send comments by one method only**):

- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.
- NCUA Web Site: http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx. Follow the instructions for submitting comments.
- E-mail: Address to regcomments@ncua.gov. Include "[Your name] Comments on Proposed Rule – Part 745" in the e-mail subject line.
- Fax: (703) 518-6319. Use the subject line described above for e-mail.
- Mail: Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.
- Hand Delivery/Courier: Same as mail address.

Public Inspection: You may view all public comments on NCUA's website at http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information

from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an e-mail to OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Associate General Counsel, Office of General Counsel, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

I. Background

A. History of IOLTAs

According to the National Association of IOLTA Programs (NAIP),[1] IOLTA programs began in Australia and Canada in the late 1960s to generate funds for legal services to the poor.[2] In the United States, Congress passed legislation in the 1980s permitting the establishment of certain

[1] The NAIP was established in 1986 to enhance legal services for the poor and for the administration of justice through the growth and development of IOLTA programs. http://www.iolta.org/about-naip.
[2] http://www.iolta.org/what-is-iolta/iolta-history.

interest-bearing checking accounts,[3] which, among many things, helped to enable the creation of IOLTA accounts throughout the United States. The various states operate IOLTA programs pursuant to their own laws.[4]

Under an IOLTA program, an attorney or law firm may establish an account at one or more financial institutions to hold their clients' funds to pay for legal services or for other purposes. An attorney or a law firm would deposit clients' funds in one or more IOLTAs and hold these funds in trust until needed. Typically, the interest or dividends on IOLTAs are donated to charities or other 501(c)(3) tax exempt organizations pursuant to state law. Generally, the donated funds are used to subsidize legal aid services or for other charitable purposes.

B. The Credit Union Share Insurance Fund Parity Act of 2014

On December 18, 2014, President Obama signed into law the Insurance Parity Act.[5] The Insurance Parity Act amended the share insurance provisions of the FCU Act by requiring enhanced, pass-through share insurance coverage for IOLTAs and other similar escrow accounts.[6] The Insurance Parity Act specifically defines "pass-through share insurance," with respect to IOLTAs and other similar escrow accounts, as "insurance coverage based on the interest of each person on whose behalf funds are held in such accounts by the attorney

[3] The Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221; 94 Stat. 132).
[4] http://www.americanbar.org/groups/interest_lawyers_trust_accounts/resources/status_of_iolta_programs.html. As determined by each state, an IOLTA program may be mandatory, voluntary, or an attorney may opt out of the program.
[5] Pub. L. No. 113-252, 128 Stat. 2893 (2014).
[6] 12 U.S.C. 1787(k).

administering the IOLTA or the escrow agent administering a similar escrow account, in accordance with regulations issued by [NCUA]."[7]

The Insurance Parity Act defines an IOLTA as "a system in which lawyers place certain client funds in interest-bearing or dividend-bearing accounts, with the interest or dividends then used to fund programs such as legal service organizations who provide services to clients in need."[8] Pursuant to the Insurance Parity Act, IOLTAs are treated as escrow accounts for share insurance purposes. Further, IOLTAs and other similar escrow accounts are considered member accounts if the attorney administering the IOLTA or the escrow agent administering the escrow account is a member of the insured credit union in which the funds are held.[9]

C. Comparison of FDIC's and NCUA's current insurance regulations regarding IOLTAs

The FDIC's deposit insurance regulations[10] do not specifically mention IOLTAs by name. Rather, the FDIC insures an IOLTA as an agent or nominee account. To be insured by the FDIC, an agent or nominee account like an IOLTA must expressly disclose, by way of specific reference, the existence of any fiduciary relationship such as an agent or nominee pursuant to which funds are deposited into a bank account and on which a claim for deposit insurance coverage is based. The FDIC has stated that such an account, including an IOLTA, must disclose that the funds are held by the nominal account holder on the behalf of others.[11] To be

[7] Pub. L. No. 113-252, 128 Stat. 2893 (2014).
[8] *Id*.
[9] The Insurance Parity Act also emphasizes that its amendments to the FCU Act do not authorize an insured credit union to accept deposits of an IOLTA or similar escrow account in an amount greater than such credit union is authorized to accept under any other provisions of federal or state law.
[10] 12 CFR part 330.
[11] FDIC Opinion Letter No. 98—2 (June 16, 1998) at https://www.fdic.gov/regulations/laws/rules/4000-9940.html.

insurable, the FDIC must be able to ascertain the interests of the other parties in the IOLTA from the records of the insured depository institution or from the records of the lawyer.[12] Funds attributable to each client will be insured on a pass-through basis if this recordkeeping requirement is satisfied.[13]

Prior to the enactment of the Insurance Parity Act, NCUA's position with respect to the insurability of IOLTAs was very similar to FDIC's, except that NCUA's coverage was limited only to those clients of the attorney who were also members of the insured credit union in which the IOLTA was kept. This was due to the FCU Act's general limitation to insure only member accounts, with some exceptions not relevant to this discussion.

Federally insured credit unions believed they were placed at a competitive disadvantage because of this treatment. With the enactment of the Insurance Parity Act, however, this disadvantage has been removed. Specifically, provided the lawyer administering the IOLTA or the escrow agent administering a similar escrow account is a member of the insured credit union in which such account is maintained, then the interests of each client or principal, regardless of that person's membership status, on whose behalf funds are being held in such accounts by the lawyer or escrow agent, will be insured on a pass-through basis in accordance with the limits in part 745 of NCUA's regulations. In an IOLTA and other similar escrow accounts, the true owners of the funds are the clients and principals. The lawyers or law firms and the escrow agents are only agents holding the funds on the clients' and principal's behalf.

[12] *Id.*
[13] *Id.*

II. Summary of the Proposed Rule

A. Why is NCUA issuing this rule as a proposal?

The language of the Insurance Parity Act clearly states that NCUA shall provide pass-through share insurance for IOLTAs, and it defines what an IOLTA is. Given this level of clarity, NCUA takes the position that share insurance coverage for IOLTAs is currently in place and has been since the enactment of the Insurance Parity Act, even without any regulatory action on NCUA's part. No implementing regulations are required to effect this aspect of the legislation. However, other aspects of the legislation do require NCUA to take regulatory action.

Additionally, some of the language in the Insurance Parity Act is ambiguous and leaves unanswered certain questions. For example, these questions include:

- What escrow accounts should be included in the category "other similar escrow accounts" as that phrase is used in the Insurance Parity Act?

- Should prepaid card programs, such as payroll cards, be considered IOLTAs or other similar escrow accounts for share insurance purposes?

• What recordkeeping requirements must be satisfied to receive share insurance on IOLTAs and other similar escrow accounts?

• Does the enhanced share insurance coverage provided by the Insurance Parity Act affect the Bank Secrecy Act (BSA) requirements for insured credit unions?

• Should nonmember funds kept in a federal credit union as a result of the enhanced share insurance coverage provided by the Insurance Parity Act count towards a federal credit union's limit on the receipt of payments on shares from nonmembers pursuant to § 701.32 of NCUA's regulations?

As discussed below in this rulemaking, NCUA analyzes the above questions and proposes how each should be addressed. NCUA seeks public comment on alternative interpretations of the Insurance Parity Act and alternative regulatory approaches that commenters believe are appropriate and beneficial. However, NCUA reiterates that despite the proposed nature of this rulemaking, IOLTA share insurance coverage is currently in place and will remain in place regardless of the direction any subsequent final rule may take.

B. Pass-through share insurance for IOLTAs and other similar escrow accounts.

As noted above, the Insurance Parity Act defines "pass-through share insurance," with respect to IOLTAs and other similar escrow accounts, as "insurance coverage based on the interest of each person on whose behalf funds are held in such accounts by the attorney administering the IOLTA

or the escrow agent administering a similar escrow account, in accordance with regulations issued by [NCUA].[14] NCUA believes this definition is clear and accurate. Also, it is consistent with how NCUA currently defines "pass-through share insurance" in its share insurance regulations relating to coverage of certain employee benefit plans.[15] NCUA proposes to adopt this statutory definition of "pass-through share insurance" as the regulatory definition of that term in part 745.

C. What escrow accounts should be included in the category "other similar escrow accounts" as that phrase is used in the Insurance Parity Act?

The Insurance Parity Act provides that, for share insurance purposes, IOLTAs are treated as escrow accounts. It also provides that pass-through insurance coverage is available for other kinds of escrow accounts that are similar to IOLTAs. However, the Insurance Parity Act does not define or further describe what constitutes an escrow account that is "similar" to an IOLTA. The Insurance Parity Act defines an IOLTA as "a system in which lawyers place certain client funds in interest-bearing or dividend-bearing accounts, with the interest or dividends then used to fund programs such as legal service organizations who provide services to clients in need."

NCUA is tasked with defining the kinds of escrow accounts that are similar enough to IOLTAs to be eligible for pass-through share insurance as discussed above. NCUA acknowledges the challenge to describe with precision the circumstances under which such coverage should be provided. There are many different kinds of escrow accounts in use with varying forms and

[14] Pub. L. No. 113-252, 128 Stat. 2893 (2014).
[15] 12 U.S.C. 1787(k)(4); 12 CFR 745.9-2.

structures. Also, "similar" is a relative term that may necessitate NCUA reviewing escrow accounts with varying structures on a case-by-case basis to determine which are similar enough to IOLTAs to receive pass-through insurance coverage.

Despite the amorphous nature of escrow accounts, NCUA believes it is important to provide insured credit unions with as much regulatory clarity and certainty as possible about which escrow accounts are considered similar enough to IOLTAs to receive pass-through insurance coverage. NCUA seeks to avoid, to the greatest extent possible, the need to make case-by-case analyses of escrow accounts as that process is labor intensive and inefficient, and it creates uncertainty for insured credit unions.

There are some escrow accounts whose nature and structure are immediately recognizable as similar to an IOLTA. For example, typical realtor escrow accounts and prepaid funeral accounts have attributes that, while not identical to IOLTAs, are similar to IOLTAs and should be entitled to pass-through share insurance coverage. One of the signature characteristics common to typical realtor accounts, prepaid funeral accounts, and IOLTAs is that each of these kinds of account has a licensed professional or other individual serving in a fiduciary capacity and holding funds for the benefit of a client as part of some transaction or business relationship. Accordingly, at a minimum, NCUA proposes to extend pass-through share insurance coverage to escrow accounts with these characteristics, up to the limits provided for in part 745 of NCUA's regulations. However, NCUA encourages commenters to identify and discuss other kinds of escrow accounts, in addition to realtor and prepaid funeral accounts, which also have characteristics similar enough to IOLTAs to warrant pass-through insurance coverage.

Accordingly, NCUA requests comment on the following: 1) what kinds of escrow accounts should qualify for pass-through share insurance coverage and why; 2) what specific attributes these escrow accounts need to possess to obtain coverage; 3) how NCUA can define these accounts to capture their essence and minimize the need for case-by-case analyses of their characteristics; and 4) any other aspect of this topic. In addition, NCUA specifically invites comment on whether it is appropriate to limit the pool of other similar escrow accounts to those where a recognizable fiduciary duty is owed by the escrow agent to the principal.

Prepaid cards.

NCUA welcomes comments on its proposed treatment of prepaid card programs. To put this in context and provide background information about such programs, we include the following excerpt on prepaid cards from the Federal Financial Institutions Examination Council's website.[16]

> The market for prepaid cards, sometimes called stored-value cards, is one of the fastest-growing segments of the retail financial services industry. While the terms prepaid cards and stored-value cards are frequently used interchangeably, differences exist between the two products.
>
> Prepaid cards are generally issued to persons who deposit funds into an account of the issuer. During the funds deposit process, most issuers establish an account and obtain identifying data from the purchaser (e.g., name, phone number, etc.).

[16] http://ithandbook.ffiec.gov/it-booklets/retail-payment-systems/payment-instruments,-clearing,-and-settlement/card-based-electronic-payments/prepaid-(stored-value)-cards.aspx

Stored-value cards do not typically involve a deposit of funds as the value is prepaid and stored directly on the cards. Because its business model requires cardholders to pay in advance, it substantially eliminates the nonpayment risk for the issuing financial institution. The functionality of this product is leading to a wide range of card programs that operate in either closed or open-loop systems, and program innovation has resulted in the development of systems that operate in both structures. Closed-loop systems are generally retailer/issuer business models, while general-purpose cards issued by financial institutions tend to operate in open-loop systems. Open-loop system prepaid cards are processed using the same systems as the branded network cards (MasterCard, Visa, American Express, and Discover) and offer the same functionality.

In the past, prepaid cards were mostly issued by nonfinancial businesses in limited deployment environments such as mass transit systems and universities. In recent years, prepaid cards have grown significantly as financial institutions and nonbank organizations target under-banked markets and overseas remittances. Technological innovations in the way information is stored (e.g., magnetic strip or computer chip), the physical form of the payment mechanism, and biometric account access and authentication are converging to create efficiencies, reduce transaction times at the point of sale, and lower transaction costs.

There are several types of prepaid cards, including gift, payroll, travel, and teen cards. Either the consumer or an issuer funds the account for the card. When a consumer uses the card to make a purchase, the merchant deducts the amount of the purchase from the card. Transaction authorization can take place through an existing network, a chip stored on the card, or information coded on the magnetic strip. Once the stored value in the card is exhausted, customers may either replenish the value or acquire a new card.

In addition to cards, stored-value payment devices are emerging in a variety of other physical forms, most notably key fobs. With the recent introduction of contactless payment technologies, use of chips (smart cards), radio frequency identification (RFID), and near-field communication (NFC) payment devices are becoming more innovative. Initiatives are underway to introduce mobile phones with integrated microchips that can initiate a payment when waved over a specially-equipped reader. The integrated chip can store value, authenticate a consumer, or contain consumer preferences and loyalty program information that can be used for marketing purposes.

Prepaid cards may be subject to legal and regulatory risks. For example, the Federal Reserve Board's final rule on Regulation E, issued August

> 30, 2006, extended its applicability to prepaid cards used for consumers' payroll. The Federal Reserve Board noted that it will monitor the development of other card products and may reconsider Regulation E coverage as these products continue to develop. State laws vary widely with regard to fees. Additionally, financial institutions should ensure that prepaid card product programs comply with the Bank Secrecy Act and anti-money laundering guidance.

NCUA generally does not believe that prepaid card programs, such as payroll cards, should be considered escrow accounts similar to IOLTAs for share insurance purposes because the characteristics that define an attorney's relationship with, and the fiduciary duties owed to, the attorney's clients are typically not present in the prepaid card scenario. An IOLTA and a prepaid card program serve very different purposes and usually have completely different structures. NCUA does not believe that a prepaid card program is always sufficiently similar to an IOLTA, for purposes of the Insurance Parity Act, to qualify for pass-through share insurance coverage as an escrow account similar to an IOLTA. However, the Board is interested in receiving comments about prepaid card programs that may be sufficiently similar to IOLTAs.

Under certain circumstances some prepaid card programs may be entitled to pass-through share insurance coverage under some other aspects of part 745, not related to IOLTAs. For example, if funds in a prepaid card program deposited in a federally insured credit union qualify as a share account that can be traced back to a specific owner in a specific amount and the owner is a member of the credit union where the funds are kept, then those funds would be entitled to share insurance pursuant to the terms and limits of part 745.

D. What recordkeeping requirements must be met to receive share insurance on IOLTAs and other similar escrow accounts?

FDIC's deposit insurance regulations provide that the FDIC will recognize a claim for insurance coverage based on a fiduciary relationship (such as an IOLTA or escrow account) only if the relationship is expressly disclosed, by way of specific references, in the deposit account records of the insured depository institution.[17] FDIC's deposit insurance regulations further provide that if the deposit account records of an insured depository institution disclose the existence of a relationship which might provide a basis for additional insurance, then the details of the relationship and the interests of other parties in the account must be ascertainable either from the deposit account records of the insured depository institution or from records maintained, in good faith and in the regular course of business, by the depositor or by some person or entity that has undertaken to maintain such records for the depositor.[18]

Similarly, NCUA's current share insurance regulations provide that the account records of an insured credit union shall be conclusive as to the existence of any relationship pursuant to which the funds in the account are deposited and on which a claim for insurance coverage is founded. Examples of such relationships would include trustee, agent, and custodian.[19] These kinds of accounts also include IOLTA and other escrow accounts similar to IOLTAs. NCUA will not recognize a claim for insurance based on such a relationship in the absence of such disclosure. Further, NCUA's share insurance regulations provide that if the account records of an insured credit union disclose the existence of a relationship which may provide a basis for additional insurance, then the details of the relationship and the interests of other parties in the account

[17] 12 CFR 330.5(b)(1).
[18] 12 CFR 330.5(b)(2).
[19] 12 CFR 745.2(c)(1).

must be ascertainable either from the records of the credit union or the records of the member maintained in good faith and in the regular course of business.[20]

IOLTAs and other similar escrow accounts exemplify the kinds of accounts in which a relationship exists upon which a claim for insurance coverage could be founded. They are among the kinds of accounts that NCUA's regulations are intended to cover. Accordingly, based on NCUA's current share insurance regulations, for IOLTAs and other similar escrow accounts to receive the share insurance covered to which they are entitled, the recordkeeping provisions of NCUA's share insurance regulations must be satisfied. No additional recordkeeping requirements are imposed by the Insurance Parity Act. Therefore, NCUA is not proposing any regulatory changes or additions in this regard, but nonetheless welcomes comments on this topic.

E. Does the enhanced share insurance coverage provided by the Insurance Parity Act affect the BSA requirements for insured credit unions?

It is not the purpose of this proposed rule to discuss in detail an insured credit union's BSA requirements. Accordingly, this is just a reminder to insured credit unions that they continue to have BSA responsibilities for IOLTAs and other similar escrow accounts and that they should continue to be vigilant in that regard. This is especially true considering that IOLTAs and other similar escrow accounts will begin to contain funds for nonmembers which are likely not known by the credit unions in which the accounts are kept. NCUA does not propose to make any regulatory changes in this regard, but nonetheless welcomes comments.

[20] 12 CFR 745.2(c)(2).

F. Do nonmember funds kept in the credit union as a result of the enhanced share insurance coverage provided by the Insurance Parity Act count towards a federal credit union's limit on the receipt of payments on shares from nonmembers pursuant to § 701.32 of NCUA's regulations?

The Insurance Parity Act provides that IOLTAs and other similar escrow accounts are considered member accounts if the attorney administering the IOLTA or the escrow agent administering the escrow account is a member of the insured credit union in which the funds are held. NCUA believes that if an IOLTA or other similar escrow account satisfies the above requirement and, therefore, is treated by the Insurance Parity Act as a member account, then the IOLTA or other similar escrow account also should be considered a member account for purposes of § 701.32 of NCUA's regulations. Therefore, funds in those member accounts do not count towards a federal credit union's limit on the receipt of payments on shares from nonmembers pursuant to § 701.32 of NCUA's regulations.[21] Accordingly, NCUA does not propose any regulatory changes in this regard but welcomes comments.

III. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.[22] For purposes of this analysis, NCUA considers small credit unions to be those having under $50 million in

[21] 12 CFR 701.32.
[22] 5 U.S.C. 603(a).

assets.[23] This rulemaking implements the Insurance Parity Act, which enhances share insurance coverage for IOLTAs and other similar escrow accounts. Accordingly, NCUA certifies the rulemaking will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.[24] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a record-keeping requirement, both referred to as information collections. This proposal, which enhances share insurance coverage for IOLTAs and other similar escrow accounts, will not create new paperwork burdens or modify any existing paperwork burdens.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined this

[23] Interpretive Ruling and Policy Statement 03–2, 68 FR 31949 (May 29, 2003), as amended by Interpretative Ruling and Policy Statement 13-1, 78 FR 4032 (Jan. 18, 2013).
[24] 44 U.S.C. 3507(d); 5 CFR part 1320.

rulemaking does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rulemaking will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999.[25]

List of Subjects

12 CFR Part 745

Credit, Credit unions, Share Insurance.

By the National Credit Union Administration Board on April 30, 2015.

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Gerard Poliquin

Secretary of the Board

For the reasons stated above, NCUA proposes to amend 12 CFR part 745 as follows:

PART 745 — SHARE INSURANCE AND APPENDIX

[25] Pub. L. 105–277, 112 Stat. 2681 (1998).

1. The authority for part 745 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789; title V, Pub. L. 109-351; 120 Stat. 1966.

§ 745.14 [Removed].

2. Remove § 745.14 from subpart B.

3. Add a new § 745.14 to subpart A to read as follows:

§ 745.14 Interest on lawyers trust accounts and other similar escrow accounts.

(a) *Pass-through share insurance*. (1) The deposits or shares of any interest on lawyers trust account (IOLTA) or other similar escrow account in an insured credit union are insured on a "pass-through" basis, in the amount of up to the SMSIA for each client and principal on whose behalf funds are held in such accounts by either the attorney administering the IOLTA or the escrow agent administering a similar escrow account, in accordance with the other share insurance provisions of this part.

(2) Pass-through coverage will only be available if the recordkeeping requirements of § 745.2(c)(1) and the relationship disclosure requirements of § 745.2(c)(2) are satisfied. In the event those requirements are satisfied, funds attributable to each client and principal will be

insured on a pass-through basis in whatever right and capacity the client or principal owns the funds. For example, an IOLTA or other similar escrow account must be titled as such and the underlying account records of the insured credit union must sufficiently indicate the existence of the relationship on which a claim for insurance is founded. The details of the relationship between the attorney or escrow agent and their clients and principals must be ascertainable from the records of the insured credit union or from records maintained, in good faith and in the regular course of business, by the attorney or the escrow agent administering the account. NCUA will determine, in its sole discretion, the sufficiency of these records for an IOLTA or other similar escrow account.

(b) *Membership requirements and treatment of IOLTAs*. For share insurance purposes, IOLTAs are treated as escrow accounts. IOLTAs and other similar escrow accounts are considered member accounts and eligible for pass-through share insurance if the attorney administering the IOLTA or the escrow agent administering the escrow account is a member of the insured credit union in which the funds are held. In this circumstance, the membership status of the clients or the principals is irrelevant.

(c) *Definitions*. (1) For purposes of this section:

Interest on lawyers trust account (*IOLTA*) means a system in which lawyers place certain client funds in interest-bearing or dividend-bearing accounts, with the interest or dividends then used to fund programs such as legal service organizations who provide services to clients in need.

Other similar escrow account means an account where a licensed professional or other individual serving in a fiduciary capacity holds funds for the benefit of a client as part of a transaction or business relationship, such as realtor accounts and prepaid funeral accounts.

Pass-through share insurance means, with respect to IOLTAs and other similar escrow accounts, insurance coverage based on the interest of each person on whose behalf funds are held in such accounts by the attorney administering the IOLTA or the escrow agent administering a similar escrow account.

(2) The terms *"Interest on lawyers trust account*", *"IOLTA*", and *"Pass-through share insurance*" are given the same meaning in this section as in 12 U.S.C. 1787(k)(5).

[FR Doc. 2015-10553 Filed: 5/11/2015 08:45 am; Publication Date: 5/12/2015]