



The State Bar *of California*

# Client Trust Account Protection Program

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# Presentation Overview

1. Discuss Progress on Client Trust Account Protection Program (CTAPP) Implementation Activities
2. Review Changes to the CTAPP Timeline and Design
3. Discuss Three Rules Issued for Public Comment
4. Review Resolutions for Board Approval



# CTAPP Timeline and Implementation Activities



# Initial CTAPP Project Timeline



## Phase I (first-half 2022)

- Annual Registration of Client Trust Accounts
- Annual Certification of Compliance



## Phase II (second-half 2022)

- Enhanced State Bar Education and Professional Development
- Annual Self-Assessment by All Attorneys
- Public Education and Client Outreach



## Phase III (2023)

- Annual Compliance Review by Certified Public Accountants (CPAs) of Selected Attorneys
- Annual Risk Review and Follow-Up Actions, Including Audits



# Revised CTAPP Timeline



## Phase I (2022)

- Annual Registration of Client Trust Accounts
- Annual Certification of Compliance
- Annual Self-Assessment
- State Bar Implementation Authority
- Rules Issued for Public Comment and Adopted



## Phase II (2022–2023)

- Enhanced State Bar Education and Professional Development
- Public Education and Client Outreach
- Research on Mandatory Bank Reporting (*proposed addition*)



## Phase III (TBD)

- Annual Compliance Review by CPAs of Selected Attorneys
- Annual Risk Review and Follow-Up Actions, Including Audits





# State Bar Implementation Authority

## New Rule of Court 9.8.5

- Annual registration of accounts & certification of compliance
- Annual self assessment
- Selection of compliance reviews
- Recommendation of audit, notice of mandatory corrective action, or referral for disciplinary action



## Progress on Phase I CTAPP Implementation Activities



**Annual Registration of Client Trust Accounts and  
Certification of Compliance**

**Anticipated Effective Date:** 2023 Billing Cycle



**Annual Self-Assessment**

**Anticipated Effective Date:** 2023 Billing Cycle



**Revise or Clarify Rule 1.15**

**Anticipated Effective Date:** Fall 2023



**Clarify Rule 1.4**

**Anticipated Effective Date:** Fall 2023







# Proposed Addition to CTAPP Design

## Inclusion of Mandatory Bank Reporting of Client Trust Account Information

- Verify accuracy of self-reported data
- Encourage appropriate reconciliation of accounts





# Rules Issued for Public Comment



## Proposed New Rule of Court 9.8.5

**Proposed new rule 9.8.5 will serve as an enabling rule for the State Bar to establish CTAPP**

The new rule will:

1. Expressly authorize the Board to adopt rules and regulations to administer the program
2. Provide nonexclusive examples of the requirements that may be imposed on lawyers
3. Specify that a failure to comply with a CTAPP requirement will subject a lawyer to being enrolled as an inactive licensee
4. Not include an explanatory comment



# Proposed Amended Rule 1.15

## Rule 1.15 governs the handling of entrusted funds and property

### Proposed amendments:

1. Replace the “promptly notify” standard with a requirement to notify within 14-days
2. Remove the condition that a lawyer’s duty to distribute funds or property is triggered only when a request is received
3. Add a presumed violation standard for a lawyer’s failure to promptly distribute undisputed funds or property, requiring distribution with a 45-day timeframe
4. Add a definition of “undisputed funds or property”
5. Add a comment clarifying that the presumed violation does not apply to a client’s file or fees or expenses paid in advance
6. Add a comment that a lawyer must act diligently to resolve any disputes that are delaying the distribution of funds or property



## Proposed Amended Rule 1.4

Rule 1.4 governs client communications and refers to “significant developments” in a client’s representation as the trigger for a lawyer’s duty to proactively communicate with a client

**Proposed language is added to Comment [1] to:**

1. Clarify that a lawyer’s receipt of funds on behalf of a client is a significant development
2. Include a cross reference to relevant provisions in rule 1.15 that address: the proposed new 14-day timeframe for notifying a client about receipt of funds; and a lawyer’s duty to promptly account for funds and property



# Resolutions



## Add Mandatory Bank Reporting to CTAPP

**Should the Board of Trustees concur with the proposed change to add mandatory bank reporting to the CTAPP design, passage of the following resolution is recommended:**

**RESOLVED**, that the Board of Trustees authorizes staff to include and pursue mandatory bank reporting of CTA information in the CTAPP design.





**Should the Board of Trustees concur in the proposed action on new rule 9.8.5, passage of the following resolution is recommended:**

**RESOLVED**, that the Board of Trustees authorizes staff to make available for public comment, for a period of 60 days, proposed new rule 9.8.5 of the California Rules of Court; and it is

**FURTHER RESOLVED**, that this authorization for release of public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed new Rule of Court.





## Public Comment on Revised Rules 1.4 and 1.15

**Should the Board of Trustees concur in the proposed action on amended rules 1.4 and 1.15, passage of the following resolution is recommended:**

**RESOLVED**, that the Board of Trustees authorizes staff to make available for public comment, for a period of 60 days, proposed amended rules 1.4 and 1.15 of the California Rules of Professional Conduct; and it is

**FURTHER RESOLVED**, that this authorization for release of public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed amended Rules of Professional Conduct.

