

PROPOSED NEW RULE 9.8.5 OF THE CALIFORNIA RULES OF COURT

Rule 9.8.5 State Bar Client Trust Account Protection Program

(a) Client trust account protection program requirements

The State Bar of California must establish and administer a program for the protection of client funds held in trust by a licensee that facilitates the State Bar's detection and deterrence of client trust accounting misconduct. Among the requirements that the State Bar may impose under this program are the following:

- (1) All licensees must annually report whether or not they are responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, and if they are responsible then they must certify that they are knowledgeable about, and in compliance with, applicable rules and statutes governing client trust accounts and the safekeeping of funds entrusted by clients and others;
- (2) All licensees who are responsible for a client trust account under the provisions of rule 1.15 of the Rules of Professional Conduct must register each and every trust account for which they are responsible by identifying account numbers and financial institutions in an online form on a secure system provided by the State Bar for such reporting;
- (3) All licensees who are responsible for a client trust account under the provisions of rule 1.15 of the Rules of Professional Conduct must complete an annual self-assessment;
- (4) If selected by the State Bar, a licensee must complete a client trust accounting compliance review to be conducted by a certified public accountant at the licensee's expense; and
- (5) If selected by the State Bar, an additional action or actions based on the results of a compliance review may include an audit, a notice of mandatory corrective action, and a referral for disciplinary action.

(b) Authorization for the Board of Trustees of the State Bar to adopt rules and regulations

The Board of Trustees of the State Bar is authorized to formulate and adopt such rules and regulations as it deems necessary and appropriate to comply with this rule.

(c) Failure to comply with program

A licensee who fails to satisfy the requirements of this program must be enrolled as an inactive licensee of the State Bar under the rules to be adopted by the Board of Trustees of the State Bar. Inactive enrollment imposed for noncompliance with the requirements of this program is cumulative and does not preclude a disciplinary proceeding or other actions for violations of the State Bar Act, the Rules of Professional Conduct or other applicable laws.