



Sweeping of the 5% of interest earned on Section 86(4) trust investments in terms of Section 86(5) of the Legal Practice Act

With effect from 1 March 2019 the Banks that have entered into a Banking Arrangement, and those Banks that will be entering into a Banking Arrangement with the LPFF will automatically sweep the 5% of trust interest earned on section 86(4) trust investments, in terms of section 86(5), to the nominated LPFF bank account.

The monthly sweep of 5% of interest earned will apply to all interest credited to a client's section 86 (4) trust investment from 1 March 2019, irrespective of the date of the opening of the investment.

The LPFF has entered into a Banking Arrangement, in terms of section 63(1)(g) of the LPA, with the following Banks:

- i. Albaraka Bank
- ii. Grindrod Bank
- iii. HBZ Bank

The LPFF will be finalising the Banking Arrangement, in terms of section 63(1)(g) of the LPA, with the following Banks by 19 February 2019:

- I. Bank of Athens
- II. GBS Mutual Bank

The LPFF, in conjunction with BASA, will be finalising the Banking Arrangement, in terms of section 63(1)(g) of the LPA, with the following Banks by 19 February 2019:

- i. ABSA
- ii. FNB
- iii. Investec Bank
- iv. Mercantile Bank
- v. Nedbank
- vi. Standard Bank

In terms of Section 86(6), a legal practitioner referred to in Section 84(1) may not deposit money in terms of section 86(2) nor invest money in terms of Section 86(3) and (4) in accounts held at a Bank which is not party to an arrangement as provided for in Section 63(1)(g), unless prior written consent of the LPFF has been obtained.

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A legal practitioner referred to in Section 84(1) must comply with the terms of an arrangement concluded between the LPFF and a Bank as provided for in section 63(1) (g).

The Banks will be communicating with their practitioner clients directly in terms of how they will be accounting for and reporting on the 5% interest paid over to the LPFF.

The Banks will be required by the South African Revenue Services (SARS) to issue an IT3b tax certificate to the legal practitioner or the legal practitioner's client for the 95% interest earned on any separate section 86(4) trust savings or other interest-bearing account. For example, if the interest for the month is R100, then the IT3b will be issued for R95.

The Bank will issue an IT3b to the LPFF for 5% of the interest earned in the section 86(4) account. For example, if the interest for the month is R100, then the IT3b will be issued for R5.

We remind you of the following changes that took effect on 1 November 2018:

1. Under Chapters 6 and 7 of the Legal Practice Act (LPA)
 - i. The Attorneys Fidelity Fund (AFF) became the Legal Practitioners Fidelity Fund (LPFF).
 - ii. The four Law Societies were dissolved and were replaced by nine Provincial Councils and nominations for members on these Provincial Councils will be called for by the Legal Practice Council
 - iii. The four Law Societies are now the four Regional Offices of the Legal Practice Council (LPC) and their contact details remain unchanged
 - iv. The nine Provincial Councils will fall under the Legal Practice Council which was constituted on 1 November 2018
 - v. Trust interest which has previously been paid to Law Societies is payable directly to the Legal Practitioners Fidelity Fund

2. The following sections in the Attorneys Act were replaced by the following sections in the LPA:
 - i. Section 78(1) of the Attorneys Act was replaced by Section 86(2) of the LPA. *(100% of trust interest earned, less approved recoverable bank charges, will be paid monthly to the LPFF as provided for by Rule 54.14.16.1 made under the authority of Section 95 (1) of the Legal Practice Act, 28 of 2014).*

 - ii. Section 78(2)(a) of the Attorneys Act was replaced by Section 86(3) of the LPA. *(100% of trust interest earned will be paid on an annual basis to the LPFF as provided for by Rule 54.14.16.3 made under the authority of Section 95 (1) of the Legal Practice Act, 28 of 2014).*

 - iii. Section 78(2A) of the Attorneys Act was replaced by Section 86(4) of the LPA. *(With effect from 1 March 2019, 5% of the trust interest earned will be paid*



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monthly to the LPFF in terms of section 86(5)) as provided for by Rule 54.14.16.4 made under the authority of Section 95 (1) of the Legal Practice Act, 28 of 2014).

We encourage you to visit the LSSA website to get the latest update on the LPA using the following URL:

<http://www.lssa.org.za/legal-practitioners/advisories/misc/legal-practice-act-28-of-2014/misc/legal-practice-act>

Please also visit the LPFF website using the following URL:

<http://www.fidfund.co.za/>

Should you have any queries on how your Bank will be handling the implementation of section 86 of the LPA, please contact your dedicated banker.

Robert Burawundi

Investment Executive

Legal Practitioners Fidelity Fund

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