

Trust Account Authorised Signatories

AUTHORISED SIGNATORIES

If an authorised principal is not available to sign a trust cheque or effect an electronic funds transfer then the cheque or electronic funds transfer can be signed by:

- i) an authorised legal practitioner associate; or
- ii) an authorised Australian legal practitioner with an unrestricted practising certificate; or
- iii) two authorised associates of the law practice jointly.

NB: Associate includes an employees of, or consultant to, the law practice.

Online Payments

Before adopting the approved ADI's* online transaction facilities, liability clauses should be clearly understood.

A transaction is authorised by a password. The system is built on the basis of password security. If an approved ADI receives a valid transaction, (one in which the correct password has been entered), the transaction will be processed without question. If there is a lack of control over the use of security passwords, it may be impossible to identify the person who entered the transaction. There is no such thing as a "forged cheque" in an online transaction.

The approved ADI will only pay on an authenticated transaction. Authorised principal/s are expected to control passwords. It is not acceptable to entrust passwords to the bookkeeper/office manager. Authorised principals are the only persons who can authorise an online transfer unless another person is properly authorised by the law practice.

Audit trails should ensure that transaction details in the cash book and approved ADI statement enable a transaction to be traced through the records. Original approved ADI statements and the transaction confirmation document (e.g. a print out of the screen confirming the transaction) must be retained and the same controls implemented for electronic funds transfers as those adopted when signing trust cheques.

It is also suggested that before online transaction facilities are used the processes are documented and fully understood by all partners and staff.

*ADI: Approved Authorised Deposit Taking Institution

***Legal Profession Regulations 2009.*

Authority to Operate General Trust Accounts or Controlled Money Accounts

General trust and controlled money accounts must be operated by an *authorised* principal of the law practice or a legal practitioner. According to Regulation** 44(1) *authorised* means authorised by the law practice to sign cheques drawn on the general trust account.

Regulations 44(4), 45(3) and 57 provide that if the principal of the law practice is not available to sign a general trust or controlled money cheque or effect an electronic funds transfer, then the principal may authorise any of the following to sign:

- i) an authorised legal practitioner associate; or
- ii) an authorised Australian legal practitioner who holds an unrestricted practising certificate authorising the receipt of trust money; or
- iii) two or more authorised associates jointly.

Note a "legal practitioner associate" of a law practice is defined in the Section 6 of the *Legal Profession Act 2008* as an associate of the practice who is an Australian legal practitioner.

Procedures for authorising and terminating Authorised Signatories

In Western Australia a law practice is not required to seek permission from the Legal Practice Board to authorise persons as signatories, nor do they need to advise the Board of the appointment and removal of authorised signatories.

However it is recommended that a register of authorised signatories is maintained.

Contact

If you have any queries, please contact:

Legal Practice Board

Trust Account Inspectors Team

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