

GUIDELINES TO THE USE OF THE EXTERNAL EXAMINER'S CHECKLIST

1. The review period is 1 April to 31 March and is based on compliance with the *Legal Profession Act 2008 (Act)* and corresponding *Legal Profession Regulations 2009 (Regulations)*.
2. An External Examiner is a person:
 - (i) the Legal Practice Board of Western Australia (**Board**) has appointed as a designated accountant pursuant to section 235 of the Act; and
 - (ii) the law practice has appointed as its External Examiner pursuant to regulation 70 of the Regulations.
3. Upon being appointed as an External Examiner by a law practice, the External Examiner should remind the law practice of its obligation to notify the Board in writing of such appointment if they have not already done so. A notification form, *Notification of Appointment or Termination of External Examiner*, is available on the Board's website.
4. Section 237 of the Act requires that a law practice must at least once in each financial year have its trust records externally examined by the External Examiner. Section 241 of the Act requires that as soon as practicable after completing an external examination, the External Examiner must give a written report of the examination to the Board. The Board recommends that the External Examiner use the Board's External Examiner's Report (**attached**). Further, the Board has also prepared a Law Practice Declaration and Trust Money Statement that the External Examiner may seek the law practice to complete in order to assist the External Examiner.
5. The checklist below has been prepared to guide the law practice and External Examiner through the examination of the various forms of trust records maintained by the law practice, and to assist in the assessment of compliance with the Act and Regulations. This checklist is **NOT** designed to replace the audit program used by the external examiner to determine an opinion on whether the trust records have been properly kept in accordance with the Act and Regulations.
6. The External Examiner is required to determine if the law practice has maintained trust records:
 - (i) that, in the opinion of the External Examiner, have been properly kept in accordance with the Act and Regulations; and
 - (ii) in a way that enables the trust records to be conveniently and properly externally examined.
7. It is necessary to conduct appropriate examination, sampling techniques and enquiries to form an opinion as to whether the accounting records have been maintained in accordance with the Act and Regulations. External Examiners must use their own judgement, based on their examination of the trust records, to form an opinion. The Board will not offer advice as to whether an issue in the records amounts to a breach of the Act of Regulations or warrants a qualified report.
8. The External Examiner is required to lodge the written report with the Board **by 31 May**. **Reports can be lodged at general@lpbwa.com.**

EXTERNAL EXAMINER'S CHECKLIST

Legal Profession Act 2008 & Legal Profession Regulations 2009

for the period _____ to _____

The External Examiner's checklist for:

Insert Name of Law Practice

Completed on:

Insert date

Completed by:

Insert name of External examiner

Signature of External Examiner:

| Index | Content | Page | Yes | N/A |
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Note: Divisions 2 to 8 include a question which allows the person completing the checklist to indicate that the whole division is not applicable (N/A). It is not necessary to tick each "N/A" box in the division. If, for example, the law practice has not received, disbursed or held controlled money then tick the "N/A" box and move to the next division.

DIVISION 1 (TRUST MONEY)

| Section | 1. | KEEPING OF TRUST RECORDS | | | | |
|--|------|---|-----|----|-----|----------|
| OBJECTIVE: To ensure the law practice has maintained records in accordance with the Regulations and has complied with the requirements of the Act and the Regulations during the period covered by the examination. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| The objective is to ensure that the law practice is keeping trust records as defined in permanent form. | | | | | | |
| 66(2) | 1.1 | Are Trust Records retained for seven years? | | | | |

| Section | 2. | COMPUTERISED ACCOUNTING SYSTEMS | | | | |
|---|------|--|-----|----|-----|----------|
| OBJECTIVE: To ensure that law practice computer system complies with the requirements of the Regulation. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| | 2.1 | Are Trust Records maintained by means of a computer system? | | | | |
| | 2.2 | Is a record kept of all changes (by creation, amendment or deletion) to: | | | | |
| 37(1)(a) | | (a) client name? | | | | |
| 37(1)(b) | | (b) client address? | | | | |
| 37(1)(c) | | (c) matter reference? | | | | |
| 37(1)(d) | | (d) matter description? | | | | |
| 37(1)(e) | | (e) ledger account number (if different from matter reference)? | | | | |
| 37(2) | 2.3 | Is the record retained by the law practice? | | | | |
| 38(1) | 2.4 | Does the program accept an entry of a transaction resulting in a debit balance to any ledger account? | | | | |
| 38(1) | 2.5 | Is a report of such entries produced? | | | | |
| 38(2)(a) | 2.6 | Does the program allow the deletion of a trust account ledger if there: | | | | |
| | | (a) is a balance on the ledger? | | | | |
| | | (b) are unrepresented cheques relating to the ledger? | | | | |
| 38(2)(b) | 2.7 | Are copies of deleted ledgers retained in permanent form? | | | | |
| 38(3) | 2.8 | Are the entries in records produced in permanent form in chronological sequence | | | | |
| 38(4) | 2.9 | Are pages of printed reports numbered sequentially? | | | | |
| 38(5) | 2.10 | Are entries already recorded capable of being amended otherwise than by a transaction separately recorded? | | | | |
| 39(a) | 2.11 | Is a back-up copy of all records made at least once per month? | | | | |
| 39(c) | 2.12 | Is the most recent back-up copy kept in a separate location so that any incident that may adversely affect the records would not also affect the back-up copy? | | | | |

| Section | 3. | TRUST ACCOUNT STATEMENTS -TRUST MONEY | | | | |
|-----------|------|---|-----|----|-----|----------|
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 61(2) | | OBJECTIVE: is to ensure that Trust Accounts Statements are sent for all Trust Money received NOTE: The provisions of regulation 61 relating to the furnishing of Trust Account Statements do not apply to a sophisticated client to the extent to which the client directs the law practice not to provide trust account statements. | | | | |
| | 3.1 | Are trust account statements issued as soon as practicable after: | | | | |
| 60(6) | | (a) completion of each matter? | | | | |
| 60(6) | | (b) a reasonable request from the person on whose behalf the money is held? | | | | |

| Section | 3. | TRUST ACCOUNT STATEMENTS -TRUST MONEY | | | | |
|-----------|------|---|-----|----|-----|----------|
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 60(6) | 3.2 | Are trust account statements sent after 30 June each year? If statements were not sent for certain accounts, | | | | |
| 60(7) | | (a) were the accounts open for less than six months? | | | | |
| 60(7) | | (b) was the balance of the ledger account or record zero and no transaction has taken place within the previous 12 months? | | | | |
| 60(7) | | (c) has a trust account statement been furnished within the previous 12 months and there have been no subsequent transactions affecting the ledger account or record? | | | | |
| | 3.3 | Do trust account statements disclose: | | | | |
| 60(5) | | (a) the same detail as required by clauses 49, 58 & 63? | | | | |
| 60(5) | | (b) the remaining balance (if any) of the money ? | | | | |
| 60(8) | 3.4 | Are copies of trust account statements retained? | | | | |

| Section | 4. | WITHDRAWING TRUST MONEY FOR LEGAL COSTS | | | | Comments |
|-----------|------|--|-----|----|-----|----------|
| Clause(s) | Item | | Yes | No | N/A | |
| | | OBJECTIVE: To ensure the law practice is complying with the procedures in regard to the withdrawal of money from a trust or controlled money account for legal costs. NOTE: This clause prescribes, for the purposes of section 225(1)(b) of the Act, the procedure for the withdrawal of trust money held in a general trust account or controlled money account of a law practice for payment of legal costs owing to the practice by the person for whom the trust money was paid into the account. | | | | |
| 65(3) | 4.1 | The law practice may withdraw the trust money if: (a) (i) it is withdrawn in accordance with a costs agreement that authorises the withdrawal, or (ii) it is withdrawn in accordance with instructions that have been received by the practice and that authorise the withdrawal, or (iii) it is owed to the practice by way of reimbursement of money already paid by the practice on behalf of the person, and (b) before effecting the withdrawal, the practice gives or sends to the person a request for payment, referring to the proposed withdrawal. | | | | |
| 65(4) | 4.2 | The law practice may withdraw the trust money: (a) if the practice has given the person a bill relating to the money, and if: (b) (i) the person has not objected to the withdrawal of the money within 7 days after being given the bill, or (ii) the person has objected within 7 days after being given the bill but has not applied for a review of the legal costs under the Act within 60 days after being given the bill, or (iii) the money otherwise becomes legally payable. | | | | |
| | 4.3 | Have withdrawals from the general trust account or controlled money account been in accordance with either clause 65(3) or 65(4)? | | | | |

| Section | 5. | NOTIFICATION OF AUTHORISED SIGNATORIES | Yes | No | N/A | Comments |
|---------------|------|---|-----|----|-----|-------------------------------------|
| Clause(s) | Item | | | | | |
| | | NOTE: 1. Notification of principals who hold local practising certificates is not required. | | | | |
| 44(4) & 45(3) | 5.1 | Have person(s) other than principals of the law practice who hold local practising certificates been authorised to sign trust cheques, sign controlled money withdrawals or effect electronic funds transfers from the general trust account or controlled money account? | | | | If "no", go to Division 2 Section 1 |
| | 5.2 | Were the authorised person(s): | | | | |
| | | (a) an authorised legal practitioner associate, or | | | | |
| | | (b) an authorised Australian legal practitioner who holds an unrestricted practising certificate authorising the receipt of trust money, or | | | | |
| | | (c) two or more authorised associates jointly? | | | | |

DIVISION 2 (GENERAL TRUST ACCOUNT)

| Section | 1. | GENERAL TRUST ACCOUNTS | Yes | No | N/A | Comments |
|-----------|------|--|-----|----|-----|--------------------------|
| Clause(s) | Item | | | | | |
| | | OBJECTIVE: To ensure a law practice that receives money that is required to be deposited into a general trust account maintains a general trust account in this jurisdiction, and that the general trust account is established and maintained in accordance with the Regulations. | | | | |
| | 1. | Has General Trust Money been received, held or disbursed during the applicable period? | | | | If "no" go to Division 3 |
| s214 | 1.1 | Has the account been correctly established as a Solicitor's Trust Account and not a business or cheque account? | | | | |
| 40(2)(a) | 1.2 | For a trust account opened on or after 1 July 2009: | | | | |
| | | (a) is it established with an ADI in this jurisdiction? | | | | |
| 40(2)(c) | 1.2 | (c) (i) does the name of the account include the name of the law practice or the business name under which the law practice engages in legal practice? | | | | |
| | 1.4 | (ii) does the name of the account include the expression "law practice trust account" or "law practice trust a/c"? | | | | |
| | | Has the law practice notified the Legal Practice Board of Western Australia within 14 days of: | | | | |
| 53(2) | | (i) opening a general trust account? | | | | |
| 53(3) | | (ii) closing a general trust account? | | | | |

| Section | 2. | TRUST ACCOUNT RECEIPTS | | | | |
|--|------|---|-----|----|-----|----------|
| OBJECTIVE: To ensure that a general trust account receipt is issued promptly in respect of general trust money received and the receipt records sufficient information to enable the receipt of the money to be properly recorded in the cashbook and trust ledger. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 41(1)-41(4) | 2.1 | Are trust receipts made out for money that is required to be paid into a general trust account? | | | | |
| 41(4) | 2.2 | Are trust receipts in duplicate? NOTE: The receipt, containing the required particulars, must be made out in duplicate, whether by way of making a carbon copy or otherwise, unless at the time the receipt is made out those particulars are recorded by computer program in the trust account receipts cash book. | | | | |
| 41(7) | 2.3 | Are the receipts: | | | | |
| | | (i) consecutively numbered? | | | | |
| | | (ii) issued in consecutive sequence? | | | | |
| 41(5)(g) | 2.4 | Do the original and duplicate receipts include: | | | | |
| | | (i) the law practice name? | | | | |
| | | (ii) the expression "Trust Account" or "Trust A/c"? | | | | |
| | 2.5 | Do the receipts include: | | | | |
| 41(5)(a) | 2.6 | (i) the date the receipt is made out? | | | | |
| | | (ii) and if the date the receipt is made out is different the date of the receipt of the money: | | | | |
| 41(5)(b) | | the amount of money received? | | | | |
| 41(5)(c) | | the form in which the money is received? | | | | |
| 41(5)(d) | | the name of the person from whom the money is received? | | | | |
| 41(5)(e) | | (iii) the name of the client? | | | | |
| | | (iv) the matter description? | | | | |
| | | (v) the matter reference? | | | | |
| 41(5)(f) | | (vi) the purpose for which the money was received? | | | | |
| 41(5)(h) | | (vii) the name of the person who made out the receipt? | | | | |
| 41(5)(i) | | (viii) the number of the receipt? | | | | |
| 41(8) | 2.7 | Does the law practice retain: | | | | |
| | | (i) the original of any cancelled receipt? | | | | |
| | | (ii) the original of any receipt not delivered? | | | | |

| Section | 3. | DEPOSITS | | | | Comments |
|--|------|--|-----|----|-----|----------|
| OBJECTIVE: To confirm that each deposit record is made out in duplicate, that completed deposit records are securely retained and the general trust money received has been promptly deposited. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | |
| s215 | 3.1 | Is money deposited as soon as practicable after it is received? | | | | |
| 42(2) 42(1) | 3.2 | Is a deposit record produced to the ADI at the time of making the deposit? NOTE: An ADI deposit record is not required in the case of money paid into a general trust account by direct deposit. | | | | |
| 42(3) | 3.3 | Do deposit records include particulars of the following: | | | | |
| 42(3)(a) | | (a) the date of deposit? | | | | |
| 42(3)(b) | | (b) the amount of deposit ? | | | | |
| 42(3)(c) | | (c) the form of deposit? | | | | |
| 42(3)(d) | | (d) for each cheque received: | | | | |
| | | (i) name of drawer? | | | | |
| | | (ii) name of ADI? | | | | |
| | | (iii) branch or BSB number? | | | | |
| | | (iv) amount? | | | | |
| 42(4) | 3.4 | Is the deposit record made out in duplicate? | | | | |
| 42(5) | 3.5 | Is the duplicate deposit record retained? | | | | |

| Section | 4. | TRUST PAYMENTS | | | | Comments |
|--|-----------|---|-----|----|-----|----------|
| OBJECTIVE: To ensure that sufficient information has been recorded on the relevant cheque butt, or cheque requisition, or other initiating disbursement document to enable details of disbursements to be properly recorded in the cashbook and trust ledger. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | |
| | 4A | TRUST CHEQUES | | | | |
| | 4A.1 | Have all funds drawn from the trust account been by way of: | | | | |
| 44 | | (a) trust cheque? | | | | |
| 45 | | (b) electronic funds transfer? | | | | |
| | 4A.2 | Do cheques include: | | | | |
| 44(3)(a) | | (a) a direction to pay to the order of a person and not to bearer or cash? | | | | |
| 44(3)(b) | | (b) crossed not negotiable? | | | | |
| 44(3)(c) | | (c) the law practice name? | | | | |
| | | (d) the expression "law practice trust account" or "law practice trust a/c"? (only applicable to accounts opened after 1 July 2008) | | | | |
| 44(5) | 4A.3 | Is a written record of the payment by cheque retained by the law practice? NOTE: A written record of the required particulars (which may be in the form of a cheque butt) must be kept of each payment made by cheque, whether by way of making a carbon copy or otherwise, unless at the time the cheque is issued those particulars are recorded by computer program in the trust account payments cash book. | | | | |
| 44(7) | 4A.4 | Do the written records include: | | | | |
| 44(7)(a) | | (a) (i) the date of issue? | | | | |
| | | (ii) the number of the cheque? | | | | |
| 44(7)(b) | | (b) the amount? | | | | |

| Section | 4. | TRUST PAYMENTS | | | | |
|--|-----------|---|-----|----|-----|----------|
| OBJECTIVE: To ensure that sufficient information has been recorded on the relevant cheque butt, or cheque requisition, or other initiating disbursement document to enable details of disbursements to be properly recorded in the cashbook and trust ledger. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 44(7)(c) | | (c) the name of the person to whom the payment is made? OR in the case of a cheque made payable to an ADI: | | | | |
| | | (i) the name of the ADI? | | | | |
| | | (ii) the name of the person receiving the benefit of the payment? | | | | |
| 44(7)(d) | | (d) (i) the name of the person on whose behalf the payment was made? | | | | |
| | | (ii) the matter reference? | | | | |
| 44(7)(e) | | (e) details identifying the ledger account to be debited? | | | | |
| 44(7)(f) | | (f) the purpose of the payment? | | | | |
| 44(8) | 4A.5 | Are written records relating to payments by cheque stored in the order in which the cheques were issued? | | | | |
| | 4B | ELECTRONIC FUNDS TRANSFERS | | | | |
| 45(4) | 4B.1 | Is a written record kept evidencing the Electronic Funds Transfer? | | | | |
| | 4B.2 | Do the records kept evidencing an electronic funds transfer include: | | | | |
| 45(6)(a) | | (a) (i) the date of the transaction? | | | | |
| | | (ii) the number of the transaction? | | | | |
| 45(6)(b) | | (b) the amount transferred? | | | | |
| 45(6)(c) | | (c) (i) the name of the account to which the amount was transferred? | | | | |
| | | (ii) the number and BSB of the account to which the amount was transferred? | | | | |
| 45(6)(d) | | (d) the name of the person to whom the payment was made? | | | | |
| 45(6)(e) | | (e) (i) details identifying the name of the person on whose behalf the payment was made? | | | | |
| | | (ii) the matter reference? | | | | |
| 45(6)(f) | | (f) details clearly identifying the ledger account to be debited? | | | | |
| 45(6)(g) | | (g) the purpose for which the payment was made? | | | | |
| 45(7) | 4B.3 | Are written records of payments by electronic funds transfers stored in the order in which the transfers were effected? | | | | |

| Section | 5. | TRUST ACCOUNT RECEIPTS AND PAYMENTS CASH BOOK | | | | |
|--|-----------|---|-----|----|-----|----------|
| OBJECTIVE: To ensure that trust account cash books have been properly kept. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| | 5A | TRUST ACCOUNT RECEIPTS AND PAYMENTS CASH BOOK GENERAL | | | | |
| | | Have the trust account receipts books been totalled for each month? | | | | |
| | | Have the trust account payments books been totalled for each month? | | | | |
| | 5B | TRUST ACCOUNT RECEIPTS CASH BOOK | | | | |
| 47(1) | 5B.1 | Are the following particulars recorded in the Trust Account Receipts Cash Book for each receipt of trust money: | | | | |
| 47(1)(a) | | (a) (i) the date a receipt was made out for the money? and, | | | | |
| | | (ii) if the date a receipt was made out for the money is different the date of receipt of the money? | | | | |
| 47(1)(b) | | (b) the receipt number? | | | | |
| 47(1)(c) | | (c) the amount of money received? | | | | |
| 47(1)(d) | | (d) the form in which the money was received? | | | | |
| 47(1)(e) | | (e) the name of the person from whom the money was received? | | | | |

| Section | 5. | TRUST ACCOUNT RECEIPTS AND PAYMENTS CASH BOOK | | | |
|----------|-----------|---|--|--|--|
| 47(1)(f) | | (f) (i) the name of the client in respect of whom the money was received? | | | |
| | | (ii) the matter description? | | | |
| | | (iii) the matter reference? | | | |
| 47(1)(g) | | (g) particulars sufficient to identify the purpose of the receipt? | | | |
| 47(1)(h) | | (h) the ledger account to be credited? | | | |
| 47(2) | | (i) the date of each deposit? | | | |
| | | (j) the amount of each deposit? | | | |
| 47(3) | 5B.2 | Are receipts recorded in the order in which they are made out? | | | |
| 47(4) | | Are particulars of receipts recorded in trust account receipts cashbook recorded within 5 days of the receipt being issued? | | | |
| | 5C | TRUST ACCOUNT PAYMENTS CASH BOOK | | | |
| 48(1) | 5C.1 | Are the following particulars recorded in the Trust Account Payments Cash Book for each payment of trust money by cheque: | | | |
| 48(1)(a) | | (a) (i) the date of the cheque? | | | |
| | | (ii) the number of the cheque? | | | |
| 48(1)(b) | | (b) the amount ordered to be paid by the cheque? | | | |
| 48(1)(c) | | (c) (i) the name of the person to whom the payment is to be made? | | | |
| | | (ii) in the case of a cheque made payable to an ADI, | | | |
| | | a. the name or BSB number of the ADI? | | | |
| | | b. the name of the person receiving the benefit of the payment? | | | |
| 48(1)(d) | | (d) (i) the name of the person on whose behalf the payment was made? | | | |
| | | (ii) the matter reference? | | | |
| 48(1)(e) | | (e) details clearly identifying the ledger account to be debited? | | | |
| 48(1)(f) | | (f) particulars sufficient to identify the purpose of the payment? | | | |
| | 5C.2 | For payments by electronic funds transfer, are the following recorded: | | | |
| 48(2)(a) | | (a) (i) the date of the transaction? and | | | |
| | | (ii) the number of the transaction? | | | |
| 48(2)(b) | | (b) the amount transferred? | | | |
| 48(2)(c) | | (c) (i) the name and number of the account to which the amount was transferred, and | | | |
| | | (ii) the relevant BSB number? | | | |
| 48(2)(d) | | (d) the name of the person to whom the payment was made? | | | |
| 48(2)(e) | | (e) (i) details identifying the name of the person on whose behalf the payment was made? | | | |
| | | (ii) the matter reference? | | | |
| 48(2)(f) | | (f) the ledger account to be debited? | | | |
| 48(2)(g) | | (g) the purpose for which the payment was made? | | | |
| 48(3) | 5B.3 | Are payments recorded in the order in which they are made? | | | |
| 48(4) | | Are particulars of payments recorded in the trust account payments cashbook recorded within 5 days of the payment being made? | | | |

| Section | 6. | RECONCILIATION OF GENERAL TRUST ACCOUNT | | | | |
|--|-----------|--|-----|----|-----|-------------------------|
| OBJECTIVE: To ensure that the trust records of each general trust account are reconciled within 15 working days of the end of each month and errors and deficiencies are identified. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| | 6A | RECONCILIATION STATEMENTS | | | | |
| 51(1) | 6A.1 | Have reconciliation statements been prepared for each month? | | | | |
| 51(2)(a) | 6A.2 | (i) Do the reconciliation statements accurately reflect the reconciliation of the balance(s) of the general trust (ADI) account(s) with the balance(s) of the cash book(s)? | | | | |
| | | (ii) Is the date that each reconciliation statement was prepared shown? | | | | |
| | | (iii) Do the reconciliation statements disclose the month to which they refer? | | | | |
| 51(3) | 6A.3 | Are reconciliation statements prepared within 15 working days after the end of each month? | | | | |
| 51(4) | 6A.5 | Are reconciliation statements retained? | | | | |
| | 6A.6 | Have all outstanding deposits been promptly deposited? | | | | |
| | 6A.7 | Are there any stale cheques (over 15 months old) recorded on the March unpresented cheques listing? | | | | |
| | 6A.8 | Are the additions of the reconciliation correct? | | | | |
| | 6A.9 | Have all reconciling items been reviewed? | | | | |
| | 6A.10 | (i) Has the general trust account balance as at 31 March been confirmed? | | | | |
| | | (ii) Has the general trust account balance as at the date of closure of the account been confirmed? | | | | |
| | 6A.11 | (i) Does the ADI statement balance agree with the ADI statement balance shown on the reconciliation statement as at 31 March? | | | | |
| | | (ii) Does the ADI statement balance agree with the ADI statement balance shown on the reconciliation statement as at the date of closure of the account? | | | | |
| | 6B | TRUST TRIAL BALANCE STATEMENTS | | | | |
| | | NOTE: The Board advises that ledger accounts with a zero balance at the end of the relevant month do not have to be included in the trial balance statement. | | | | |
| 51(2) | 6B.1 | Have trust trial balances been prepared for each month? | | | | |
| 51(2)(b)(ii) | 6B.2 | Do the trust trial balances disclose: | | | | |
| 51(2) (a) | | (i) the month to which they refer? | | | | |
| 51(2)(b) (iii) | | (ii) the date of preparation? | | | | |
| 51(2)(b)(ii) | | (iii) the account name? | | | | |
| 51(2)(b)(ii) | | (iv) the reference number or identification? | | | | |
| 51(2)(b)(ii) | | (v) the balance of each account at month end? | | | | |
| 51(2)(b)(i) | | (vi) the total of all balances at month end? | | | | |
| 51(2)(b)(i) | 6B.3 | (vii) the comparison between the total of the trial balance and the reconciled cash book balance as at the same date? | | | | |
| 51(3) | 6B.4 | Is the date of preparation within 15 working days of the end of the month to which the trial balance relates? | | | | |
| 51(4) | 6B.5 | Are trial balance statements retained? | | | | |
| | 6B.6 | Have any discrepancies in item 6B.3 above been satisfactorily noted, explained and subsequently adjusted? | | | | |
| | 6B.7 | Have all debit balances (excluding the ADI account) listed on any trust trial balance statement been rectified as soon as practicable after the time when the debit balance should have become apparent? | | | | If "no" go to item 6B.8 |
| | 6B.8 | Are details of the ledger accounts concerned, the duration of the debit balances and the method of restoration (if applicable), outlined in the External Examiner's Report at paragraph 5? | | | | |

| Section | 7. | TRUST JOURNAL | | | | |
|---|------|---|-----|----|-----|----------|
| OBJECTIVE: To ensure that there are no transfers without the use of the trust journal and the required details are recorded for each trust journal. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 50(2) | 7.1 | Have the journal transfers been authorised in writing? | | | | |
| | 7.2 | Are the following particulars recorded for each journal transfer: | | | | |
| 50(5)(a) | | (a) the date of the transfer? | | | | |
| 50(5)(b) | | (b) the trust ledger account from which the money is transferred? | | | | |
| 50(5)(c) | | (c) the trust ledger account to which the money is transferred? | | | | |
| 50(5)(d) | | (d) the amount transferred? | | | | |
| 50(5)(e) | | (e) (i) the purpose of the transfer? | | | | |
| | | (ii) the matter reference? | | | | |
| | | (iii) the matter description? | | | | |
| 50(6) | 7.3 | Are journal pages or entries consecutively numbered? | | | | |
| 50(7) | 7.4 | Are particulars of the authorisation for each transfer kept? | | | | |

| Section | 8. | TRUST LEDGER ACCOUNTS | | | | |
|--|------|--|-----|----|-----|----------|
| OBJECTIVE: To ensure that the trust ledger accounts have been properly kept and details of money received, disbursed and transferred are recorded in a trust ledger account kept for each persons on whose behalf money is held. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 49(1) | 8A.1 | Is a separate ledger account opened for each matter for which trust money has been received? | | | | |
| | 8A.2 | Does each ledger account include in the title: | | | | |
| 49(2)(a) | | (a) the name of the person? | | | | |
| 49(2)(b) | | (b) the person's address? | | | | |
| 49(2)(c) | | (c) (i) matter reference? | | | | |
| | | (ii) matter description? | | | | |
| 49(3) | 8A.3 | Are details of any changes to the title of a trust ledger recorded? | | | | |
| | 8A.4 | Are the following particulars recorded in the trust ledger account for receipts, payments or journal transfers: | | | | |
| 49(4) | | (i) the date the receipt, payment voucher or journal transfer was made out? | | | | |
| | | (ii) For receipts if the date of the receipt is different to the date of receipt of the money, is the date of the receipt of the money also recorded? | | | | |
| 49(5)(a) | | (a) the receipt, cheque or journal transfer number? | | | | |
| 49(5)(b) | | (b) the amount received, paid or transferred? | | | | |
| 49(c) | | (c) the name of the person the money was received from, paid to or transferred to or from? | | | | |
| 49(d) | | (d) the reason the money was received, paid or transferred? | | | | |
| | | NOTE: the above question represents an amalgamation of clauses 49(4), 49(5), 49(6) and 49(7). If a no response is entered the particular breach may be recorded at Schedule 1, ie 49(4)(a) date of receipt not shown. | | | | |
| | 8A.5 | Additionally for | | | | |
| | | (a) cheques drawn to an ADI ("bank cheques") does the trust account ledger disclose: | | | | |
| 49(5)(c) | | (i) the name or BSB number of the ADI? | | | | |
| | | (ii) the name of the person receiving the benefit? | | | | |
| | | (b) for electronic funds transfers, do the trust account ledgers disclose: | | | | |
| 49(6)(c) | | (i) the name and number of the account to which the amount was transferred? | | | | |
| 49(6)(d) | | (ii) the name of the person to whom the money was transferred? | | | | |

| Section | 8B | TRUST LEDGER ACCOUNT IN NAME OF LAW PRACTICE OR LEGAL PRACTITIONER ASSOCIATE'S | Yes | No | N/A | Comments |
|----------|------|--|-----|----|-----|--------------------------|
| 52(1) | 8B.1 | Does the trust ledger contain an account in the name of: | | | | If "yes" go to item 8B.2 |
| | | (i) the law practice? | | | | |
| | | (ii) an associate of the law practice? | | | | |
| | 8B.2 | Is the use restricted to: | | | | |
| 52(2)(a) | | (a) a clearing account for transferring legal costs? | | | | |
| 52(2)(b) | | (b) matter(s) in respect of which the legal practitioner associate has a personal and beneficial interest as a vendor, purchaser, lessor, lessee or in another similar capacity? | | | | |
| 52(3) | 8B.3 | If a clearing account is used, have the funds been withdrawn within 1 month of being transferred to the account? | | | | |
| 52(4) | 8B.4 | If there is an account where the legal practitioner associate had a personal and beneficial interest, have funds been withdrawn at the conclusion of the matter(s)? | | | | |

DIVISION 3 (CONTROLLED MONEY)

| Clause(s) | Item | | Yes | No | N/A | Comments |
|--|------|---|-----|----|-----|--------------------------|
| OBJECTIVE: To ensure a law practice that receives controlled money deposits the money in a controlled money account as directed. | | | | | | |
| "Controlled money" means trust money received by a law practice with a written direction to deposit the money in an account (other than a general trust account) over which the practice has or will have exclusive control. | | | | | | |
| "Controlled Money account" means an account maintained by a law practice with an ADI for the holding of controlled money received by the practice | | | | | | |
| | | Has Controlled Money been received, held or disbursed during the applicable period? | | | | If "no" go to Division 4 |
| | 1.1 | If the controlled money account was opened after 1 July 2009 does the name of the controlled money account include: | | | | |
| 54(1)(a) | | (a) the name of the law practice concerned? | | | | |
| 54(1)(b) | | (b) the expression "controlled money account"? | | | | |
| 54(1)(c) | | (c) such particulars as are sufficient to identify: | | | | |
| | | (i) the purpose of the account ? | | | | |
| | | (ii) to distinguish the account from any other account maintained by the law practice? | | | | |
| s218(3) ACT | 1.2 | For controlled money accounts opened after 1 July 2009 have written directions been obtained to open the account? | | | | |

| Section | 2. | CONTROLLED MONEY RECEIPT | Yes | No | N/A | Comments |
|--|------|--|-----|----|-----|----------|
| OBJECTIVE: To ensure that a controlled money account receipt is issued promptly in respect of all controlled money received and the required particulars are properly recorded. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 55(2) | 2.1 | Does the law practice maintain a single controlled money receipt system for the receipt of controlled money for all its controlled money accounts? | | | | |
| 55(4) & 55 (11) | 2.2 | Is a controlled money receipt made out for the receipt of controlled money excluding interest received into the controlled money account? | | | | |
| 55(5) | 2.3 | Are the controlled money receipts in duplicate? NOTE: The receipt, containing the required particulars, must be made out in duplicate, whether by way of making a carbon copy or otherwise, unless at the time the receipt is made out those particulars are recorded by computer program in the register of controlled money. | | | | |

| Section | 2. | CONTROLLED MONEY RECEIPT | | | | |
|--|------|--|-----|----|-----|----------|
| OBJECTIVE: To ensure that a controlled money account receipt is issued promptly in respect of all controlled money received and the required particulars are properly recorded. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| | 2.4 | Do the receipts include: | | | | |
| 55(6)(h) | | (i) the name of the law practice, or the business name under which the law practice engages in legal practice? | | | | |
| | | (ii) the expression "controlled money receipt"? | | | | |
| | 2.5 | Do the receipts include the following required particulars: | | | | |
| 55(6)(a) | | (a) (i) the date the receipt is made out? | | | | |
| | | (ii) if the date the receipt is made out is different, the date of receipt of the money? | | | | |
| 55(6)(b) | | (b) the amount of money received? | | | | |
| 55(6)(c) | | (c) the form in which the money was received? | | | | |
| 55(6)(d) | | (d) the name of the person from whom the money was received? | | | | |
| 55(6)(e) | | (e) (i) details clearly identifying the name of the person on whose behalf the money was received? and | | | | |
| | | (ii) the matter description? | | | | |
| | | (iii) the matter reference? | | | | |
| 55(6)(f) | | (f) particulars sufficient to identify the purpose of the receipt? | | | | |
| 55(6)(g) | | (g) the name of and other details identifying the controlled money account to be credited? | | | | |
| 55(6)(i) | | (h) the name of the person who made out the receipt? | | | | |
| 55(6)(j) | | (i) the number of the receipt? | | | | |
| 55(9) | 2.6 | Are controlled money receipts: | | | | |
| | | (i) consecutively numbered? | | | | |
| | | (ii) issued in consecutive sequence? | | | | |
| 55(10) | 2.7 | Is the original of any receipt that is cancelled or not delivered kept? | | | | |

| Section | 3. | CONTROLLED MONEY WITHDRAWAL | | | | |
|---|------|---|-----|----|-----|----------|
| OBJECTIVE: To ensure that all withdrawals of controlled money are carried out in accordance with the Regulation and that a written record disclosing the required particulars is kept for each withdrawal of controlled money. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 57(3) & 57(4) | 3.1 | Is a written record kept of each withdrawal? | | | | |
| | 3.2 | Does the written record contain the following required particulars: | | | | |
| 57(5)(a) | | (a) (i) the date? | | | | |
| | | (ii) the number of the transaction? | | | | |
| 57(5)(b) | | (b) the amount withdrawn? | | | | |
| 57(5)(c) | | (c) in the case of a transfer made by electronic funds transfer: | | | | |
| | | (i) the name? | | | | |
| | | (ii) number of the account to which the amount was transferred? | | | | |
| | | (iii) the relevant BSB number? | | | | |
| 57(5)(d) | | (d) the name of the person to whom payment is to be made? | | | | |
| | | or, in the case of a payment to an ADI, | | | | |
| | | (i) the name or BSB number of the ADI? | | | | |
| | | (ii) the name of the person receiving the benefit of the payment? | | | | |
| 57(5)(e) | | (e) details identifying: | | | | |

| Section | 3. | CONTROLLED MONEY WITHDRAWAL | | | | |
|---|------|--|-----|----|-----|----------|
| OBJECTIVE: To ensure that all withdrawals of controlled money are carried out in accordance with the Regulation and that a written record disclosing the required particulars is kept for each withdrawal of controlled money. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| | | (i) the name of the person on whose behalf the payment was made? | | | | |
| | | (ii) the matter reference? | | | | |
| 57(5)(f) | | (f) the purpose for which the payment was made? | | | | |
| 57(5)(g) | | (g) the person or persons effecting, directing or authorising the withdrawal? | | | | |
| 57(6) | 3.3 | Are the written records filed in the order in which the payments are recorded? | | | | |

| Section | 4 | REGISTER OF CONTROLLED MONEY | | | | |
|--|------|---|-----|----|-----|----------|
| OBJECTIVE: To ensure that all records relating to controlled money accounts are properly kept in the controlled money register. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 58(1) | 4. | Does the law practice maintain a register of controlled money? | | | | |
| 58(2) | 4.1 | Does the controlled money register consist of the records of controlled money movements? | | | | |
| | 4.2 | Does the header of the record of controlled money movements contain: | | | | |
| 58(3)(a) | | (a) the name of the person on whose behalf the controlled money is held? | | | | |
| 58(3)(b) | | (b) the person's address? | | | | |
| 58(3)(c) | | (c) matter description? | | | | |
| 58(3)(d) | | (d) any changes to the name, address or matter description? | | | | |
| | 4.3 | Do the transactions in the controlled money movements record disclose: | | | | |
| 58(4)(a) | | (a) the date the controlled money was received? | | | | |
| 58(4)(b) | | (b) the number of the receipt? | | | | |
| 58(4)(c) | | (c) the date deposited? | | | | |
| 58(4)(e) | | (d) the amount deposited? | | | | |
| 58(4)(f) | | (e) details of the deposit sufficient to identify the deposit? | | | | |
| 58(4)(d) | | (f) the name of the controlled money account? | | | | |
| 58(4)(g) | | (g) interest received? | | | | |
| 58(4)(h) | | (h) details of any payments including the particulars required to be recorded under clause 57(5)? | | | | |
| 58(7) | 4.4 | Does the law practice retain all supporting information relating to controlled money? | | | | |

| Section | 5 | CONTROLLED MONEY LISTING OF ACCOUNTS | | | | |
|--|------|--|-----|----|-----|----------|
| OBJECTIVE: To ensure that listings of controlled money are prepared within 15 working days of each month for the period under review. | | | | | | |
| Clause(s) | Item | | Yes | No | N/A | Comments |
| 58(8) | 5.1 | Have controlled money listings of accounts been prepared for each month? | | | | |
| 58(8)(b) | 5.2 | Do the controlled money lists show a date of preparation? | | | | |
| 58(8) | 5.3 | Have they been prepared within 15 working days of month end? | | | | |
| | 5.4 | Do the controlled money listings contain: | | | | |
| 58(8)(a)(i) | | (i) a. the name of the controlled money account? | | | | |
| | | b. the number of the controlled money account? | | | | |
| | | c. balance of each account in the register? | | | | |
| 58(8)(a)(ii) | | (ii) the name of the person on whose behalf the controlled money was held? | | | | |
| 58(8)(a)(iii) | | (iii) matter description? | | | | |

DIVISION 4 (TRANSIT MONEY)

| Section | 1. | TRANSIT MONEY | | | | |
|-----------|------|--|-----|----|-----|--------------------------|
| Clause(s) | Item | | Yes | No | N/A | Comments |
| | | Has the law practice received Transit Money during the applicable period? Note 1: If Transit money is received in cash, it must be deposited to the general trust account in accordance with section 222(4) of the Act. Note 2: The Board advises that for settlement money which is not retained, settlement sheets, settlement statements, settlement directions and settlement instructions should be retained in the matter file in order to comply with the Transit Money provision of the legislation. Where cheques come into more permanent possession of the law practice, then a photocopy of the cheque should be taken, and the required details including the purposes for the receipt be appended to it. The record should be retained in the matter file. | | | | If "no" go to Division 5 |
| 59 | 1.1 | Does the law practice record and maintain records for transit money that disclose: | | | | |
| | | (i) brief particulars sufficient to identify the relevant transaction? | | | | |
| | | (ii) the purpose for which the money was received? | | | | |

DIVISION 5 (TRUST MONEY SUBJECT TO SPECIFIC POWER)

| Section | 1. | TRUST MONEY SUBJECT TO SPECIFIC POWER | | | | |
|-----------|------|---|-----|----|-----|--------------------------|
| Clause(s) | Item | | Yes | No | N/A | Comments |
| | | Has the law practice or an associate of the law practice been given a power to deal with trust money (whether alone or jointly with another person) during the applicable period? | | | | If "no" go to Division 6 |
| | 1.1 | Does the law practice keep: | | | | |
| 63(2)(a) | | (i) a record of all dealings with the money to which the practice or associate is a party? | | | | |
| 63(2)(b) | | (ii) all supporting information in relation to the dealings? | | | | |

DIVISION 6 (REGISTER OF POWERS AND ESTATES IN RELATION TO TRUST MONEY)

| Section | 1. | REGISTER OF POWERS AND ESTATES | | | | |
|-----------|------|---|-----|----|-----|--|
| Clause(s) | Item | | Yes | No | N/A | Comments |
| | | Has the law practice or an associate of the law practice: (i) acted, or (ii) is entitled to act, alone or jointly with the law practice or one or more associates of the practice, in relation to trust money? | | | | If "no" to both questions go to Division 7 |
| 64(1) | 1.1 | Does the law practice keep a register of powers and estates? | | | | |
| | 1.2 | Does the register record: | | | | |
| 64(3)(a) | | (i) the name of the donor? | | | | |
| | | (ii) address of the donor? | | | | |
| | | (iii) date of each power? | | | | |
| 64(3)(b) | | Does the register record: | | | | |
| | | (i) the name of each deceased? | | | | |
| | | (ii) date of death of the deceased in respect of each estate of which the law practice or associate is executor or administrator? | | | | |

DIVISION 7 (INVESTMENT OF TRUST MONEY)

| Section | 1. | INVESTMENT OF TRUST MONEY | Yes | No | N/A | Comments |
|-----------|------|--|-----|----|-----|--------------------------|
| Clause(s) | Item | | | | | |
| s206(1) | 1.1 | Has the law practice held the trust money as: Money that is entrusted to or held by a law practice for or in connection with — (a) a financial service provided by the practice or an associate of the practice in circumstances where the practice or associate is required to hold an Australian financial services licence covering the provision of the service (whether or not such a licence is held at any relevant time); or (b) a financial service provided by the practice or an associate of the practice in circumstances where the practice or associate provides the service as a representative of another person who carries on a financial services business (whether or not the practice or associate is an authorised representative at any relevant time)? | | | | |
| s206(3) | 1.2 | Has the law practice invested Trust Money referred to in section 206(3) of the Act? Note 1: Section 206(3) reads: “money that is entrusted to or held by a law practice for investment purposes, whether on its own account or as agent, is not trust money for the purposes of this Act, unless: (a) the money was entrusted to or held by the practice: (i) In the ordinary course of legal practice, and (ii) primarily in connection with the provision of legal services to or at the direction of the client, and (b) the investment is or is to be made: (i) in the ordinary course of legal practice, and (ii) for the ancillary purpose of maintaining or enhancing the value of the money or property pending completion of the matter or further stages of the matter or pending payment or delivery of the money or property to or at the direction of the client.” Note 2: This Division is not required to be completed if the particulars to be recorded in the register of investments have been recorded elsewhere by the law practice for example controlled money. | | | | If “no” go to Division 9 |

DIVISION 8 (REGISTER OF INVESTMENTS)

| Clause(s) | Item | REGISTER OF INVESTMENTS | Yes | No | N/A | Comments |
|-----------|------|---|-----|----|-----|----------|
| 62(2) | 1.2 | Does the law practice keep a register of investments? | | | | |
| | 1.3 | Does the register record: | | | | |
| 62(3)(a) | | (a) the name in which the investment is held? | | | | |
| 62(3)(b) | | (b) the name of the person on whose behalf the investment is made? | | | | |
| 62(3)(c) | | (c) the person's address? | | | | |
| 62(3)(d) | | (d) particulars sufficient to identify the investment? | | | | |
| 62(3)(e) | | (e) the amount invested? | | | | |
| 62(3)(f) | | (f) the date the investment was made? | | | | |
| 62(3)(g) | | (g) particulars sufficient to identify the source of the investment, including, for example: (i) a reference to the relevant trust ledger, and (ii) a reference to the written authority to make the investment, and (iii) the number of the cheque for the amount to be invested? | | | | |
| 62(3)(h) | | (h) details of any documents evidencing the investment? | | | | |

| | | REGISTER OF INVESTMENTS | Yes | No | N/A | Comments |
|------------------|-------------|--|------------|-----------|------------|-----------------|
| Clause(s) | Item | | | | | |
| 62(3)(i) | | (i) details of any interest received from the investment or credited directly to the investment? | | | | |
| 62(3)(j) | | (j) details of the repayment of the investment and any interest, on maturity or otherwise? | | | | |

DIVISION 9 (MATTER FILES)

| | | MATTER FILES | Yes | No | N/A | Comments |
|------------------|-------------|--|------------|-----------|------------|-----------------|
| Clause(s) | Item | | | | | |
| | 9.1 | Are the matter files selected a representative sample of open files and those matter files closed during the period under examination? | | | | |
| | 9.2 | Have source records been sighted to confirm the accuracy of records in trust account receipts and payments cash book and the trust account ledger? | | | | |
| | 9.3 | Is there any evidence of trust money not being recorded into the trust records of the law practice? | | | | |