

DIVISION 3 (CONTROLLED MONEY)

SECTION	1.	CONTROLLED MONEY	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 money received or held by a law practice in respect of which the law practice has 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. (S128(1) of the Uniform Law)						
"Controlled money account" means an account maintained by a law practice with an ADI for the holding of controlled money received by the law practice. (S128(1) of the Uniform Law)						
Section/ Rule	Item		Yes	No	N/A	Comments
S129(1)(b)	1.1	Has Controlled Money been received, held or disbursed during the applicable period?				If response is "No", go to Division 4
	1.2	Does the name of the controlled money account include:				
61(a)	1.2.1	the name of the law practice concerned?				
61(b)	1.2.2	the expression "controlled money account" or the abbreviation "CMA" or "CMA/c"?				
61(c)	1.2.3	such particulars as are sufficient to identify:				
61(c)-1	1.2.3.1	the purpose of the account? And				
61(c)-2	1.2.3.2	to distinguish the account from any other account maintained by the law practice?				
S139(1)	1.3	Have (external) written directions been obtained to open the controlled money accounts?				

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.						
Rule	Item		Yes	No	N/A	Comments
62(1)	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?				
62(2)	2.2	Is a controlled money receipt made out as soon as possible for the receipt of controlled money (excluding interest received into the controlled money account –see Rule 62(8))?				
62(3)	2.3	Does the law practice give the person from whom the controlled money was received a copy of the receipt upon request?				
62(4)	2.4	Are the controlled money receipts in duplicate? Note: The receipt must be made out in duplicate, unless at the time the receipt is made out those particulars are recorded by a computerised accounting system in the register of controlled money.				
	2.5	Do the receipts include:				
62(4)(h)-1	2.5.1	the name of the law practice, or the business name under which the law practice engages in legal practice? And				
62(4)(h)-2	2.5.2	the expression "controlled money receipt"?				
	2.6	Do the receipts include the following particulars:				
62(4)(a)-1	2.6.1	the date the receipt is made out? and				
62(4)(a)-2	2.6.2	if the date the receipt is made out is different, the date of receipt of the money?				
62(4)(b)	2.6.3	the amount of money received?				
62(4)(c)	2.6.4	the form in which the money was received?				
62(4)(d)	2.6.5	the name of the person from whom the money was received?				

SECTION 2. CONTROLLED MONEY RECEIPT						
Rule	Item		Yes	No	N/A	Comments
62(4)(e)-1	2.6.6	details clearly identifying the name of the person on whose behalf the money was received?				
62(4)(e)-2	2.6.7	the matter description?				
62(4)(e)-3	2.6.8	the matter reference?				
62(4)(f)	2.6.9	particulars sufficient to identify the reason for the receipt?				
62(4)(g)	2.6.10	the name of and other details identifying the controlled money account to be credited?				
62(4)(i)	2.6.11	the name of the person who made out the receipt?				
62(4)(j)	2.6.12	the number of the receipt?				
62(5)	2.7	If the controlled money account to be credited has not been established by the time the receipt is made out, does the duplicate receipt include the name of, and other details clearly identifying, the account when established?				
	2.8	Are controlled money receipts:				
62(6)(a)-1	2.8.1	consecutively numbered? and				
62(6)(a)-2	2.8.2	issued in consecutive sequence?				
62(7)	2.9	Is the original of any receipt that is cancelled or not delivered kept by the law practice?				

SECTION 3. CONTROLLED MONEY WITHDRAWAL						
OBJECTIVE: To ensure that all withdrawals of controlled money are carried out in accordance with the Rules and that a written record disclosing the required particulars is kept for each withdrawal of controlled money.						
Rule	Item		Yes	No	N/A	Comments
	3.1	Are all controlled money withdrawals made by either:				
63(1)-1	3.1.1	cheque? or				
63(1)-2	3.1.2	electronic funds transfer?				
	3.2	Are all controlled money withdrawals effected by, under the direction of or with the authority of:				
63(2)(a)	3.2.1	an authorised principal of the law practice? or				
63(2)(b)	3.2.2	if such a principal is not available:				
63(2)(b)(i)	3.2.2.1	a legal practitioner associate authorised by the law practice to effect, direct or give authority for this purpose? or				
63(2)(b)(ii)	3.2.2.2	when an authorised practitioner referred to in subparagraph (i) is not available - an Australian legal practitioner who holds an Australian practising certificate authorising the receipt of trust money and who is authorised by the law practice to effect, direct or give authority for this purpose? or				
63(2)(b)(iii)	3.2.2.3	when the authorised practitioners referred to in subparagraph (i) or (ii) are both not available - two or more associates of the law practice jointly who are authorised by the law practice to effect, direct or give authority for this purpose?				
63(3) & (4)	3.3	Is a written record kept of each withdrawal? Note: If, at the time the withdrawal is made, the required particulars are recorded by a computerised accounting system, a written record must be kept that is sufficient to enable the accuracy of the particulars recorded by the computerised accounting system to be verified.				

SECTION 3. CONTROLLED MONEY WITHDRAWAL						
Rule	Item		Yes	No	N/A	Comments
63(5)	3.4	Does the written record contain the following particulars:				
63(5)(a)-1	3.4.1	the date?				
63(5)(a)-2	3.4.2	the number of the transaction?				
63(5)(b)	3.4.3	the amount withdrawn?				
	3.4.4	in the case of a withdrawal made by cheque:				
63(5)(c)-1	3.4.4.1	the name of the person to whom payment is to be made? or				
63(5)(c)-2	3.4.4.2	if the cheque is made payable to an ADI:				
63(5)(c)-3	3.4.4.2.1	the name or BSB number of the ADI?				
63(5)(c)-4	3.4.4.2.2	the name of the person receiving the benefit of the payment?				
	3.4.5	in the case of a withdrawal made by electronic funds transfer:				
63(5)(d)-1	3.4.5.1	the account name? and				
63(5)(d)-2	3.4.5.2	the account number of the account to which the amount was transferred? and				
63(5)(d)-3	3.4.5.3	the relevant BSB number?				
	3.4.6	details clearly identifying:				
63(5)(e)-1	3.4.6.1	the name of the person on whose behalf the payment was made? and				
63(5)(e)-2	3.4.6.2	the matter reference?				
63(5)(f)	3.4.7	the reason for which the payment was made?				
63(5)(g)	3.4.8	the person or persons effecting, directing or authorising the withdrawal?				
63(6)	3.5	Are the written records filed in the order in which the withdrawals are recorded?				
63(5)	3.6	Are the written records recorded separately for each controlled money account?				

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.				
Section/Rule	Item		Yes	No	N/A	Comments
64(1)	4.1	Does the law practice maintain a register of controlled money ?				
64(2)	4.2	Does the controlled money register consist of the records of controlled money movements for each controlled money account?				
	4.3	Does the header of the record of controlled money movements contain:				
64(3)(a)	4.3.1	the name of the person on whose behalf the controlled money is held?				
64(3)(b)	4.3.2	the person's address?				
64(3)(c)	4.3.3	particulars sufficient to identify the matter (such as the controlled money account details, matter description and matter reference)?				
64(3)(d)	4.3.4	any changes to the name, address or particulars sufficient to identify the matter?				

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SECTION	4.	REGISTER OF CONTROLLED MONEY	Yes	No	N/A	Comments
Section/ Rule	Item					
	4.4	Do the transactions in the controlled money movements record disclose:				
64(4)(a)	4.4.1	the date the controlled money was received?				
64(4)(b)	4.4.2	the number of the receipt?				
64(4)(c)	4.4.3	the date the money was deposited in the controlled money account?				
64(4)(d)	4.4.4	the name of and other details clearly identifying the controlled money account?				
64(4)(e)	4.4.5	the amount of controlled money deposited?				
64(4)(f)	4.4.6	details of the deposit sufficient to identify the deposit?				
64(4)(g)	4.4.7	interest received?				
64(4)(h)	4.4.8	details of any payments from the controlled money account, including the particulars required to be recorded under Rule 63(5)?				
64(5)	4.5	Are particulars of receipts and payments entered into the register as soon as practicable after the controlled money is received by the law practice or any payment is made?				
64(6)	4.6	Is the interest and other income received in respect of controlled money entered in the register as soon as practicable after the law practice is notified of its receipt?				
64(7)	4.7	Does the law practice retain all supporting information (including ADI statements and notifications of interest received) relating to controlled money?				
	4.8	Subject to a court order or as authorised by law, did the law practice:				
S139(3)(a)	4.8.1	obtain an (external) written direction relating to the disbursement of the controlled money; or				
S139(3)(b)	4.8.2	obtain a later (external) written direction given by or on behalf of the person on whose behalf the money was received relating to the disbursement of the money?				
S139(3)	4.8.3	Were disbursements from the controlled money account made in accordance with the (external) written directions?				
S139(1) to (5) & S147(2)	4.8.4	Have source records been sighted to confirm the accuracy of the records in any controlled money accounts (including the statements provided by the ADI)?				

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SECTION	5.	CONTROLLED MONEY LISTING OF ACCOUNTS				
OBJECTIVE: To ensure that listings of controlled money are prepared within 15 working days of each month end for the period under review.						
Section/ Rule	Item		Yes	No	N/A	Comments
64(8)-1	5.1	Have controlled money listings of accounts been prepared for each month?				
64(8)(b)	5.2	Do the controlled money lists show a date of preparation?				
64(8)-2	5.3	Have they been prepared within 15 working days of month end?				
	5.4	Do the controlled money listings contain:				
64(8)(a)(i)-1	5.4.1	the name of each controlled money account in the register?				
64(8)(a)(i)-2	5.4.2	the number of the controlled money account in the register?				
64(8)(a)(i)-3	5.4.3	the balance of each controlled money account in the register?				
64(8)(a)(ii)	5.4.4	the name of the person on whose behalf each controlled money account is/was held?				
64(8)(a)(iii)	5.4.5	a short description of the matter to which each controlled money account relates?				
S148-1	5.5.	Were there any debit balances or deficiencies identified from a review of the controlled money records over the applicable period? If so:				If response is “No”, go to Division 4.
S148-2	5.5.1	Did the law practice answer “Yes” to the Controlled Money Deficiency report question in paragraph 2 of the Statement of Trust Money - Law Practice - Part B?				
S148-3	5.5.2	Have all controlled money account debit balances or deficiencies been rectified as soon as practicable after the time when the debit balance or deficiency should have become apparent? (Note: Please provide the details of each matter that was not restored promptly in paragraph 5 of the Opinion Section of the External Examiner’s Report)				
S148-4	5.5.3	Did the law practice take the appropriate action in rectifying the controlled money account debit balances or deficiencies? (Note: Please provide the details of each matter in which the appropriate action was not taken by the law practice in paragraph 5 of the Opinion Section of the External Examiner’s Report)				
S154(1)	5.5.4	Did the law practice report each controlled money account debit balance or deficiency to the Board in writing as soon as practicable after it became aware of the irregularity? (If so, please review the correspondence, including the written response from the Review and Audit team)				