For the period      /     /      to      /     /

|  |
| --- |
| **External Examiner’s checklist for** *(name of law practice)* |
|       |
| **Completed on** *(date the checklist was completed)* |
|       |
| **Completed by** *(name of person completing the checklist)* |
|       |
| **Position in law practice** |
|       |
| **Completed on** *(date)* |
|       |
| **Completed by** *(name of External Examiner)* |
|       |
|  |
| **Signature of External Examiner** |

|  |  |  |  |
| --- | --- | --- | --- |
| **Index** | **Content** | **Yes** | **N/A** |
| [Division 1 – Trust money](#_heading=h.32hioqz) | ☐ | ☐ |
| [Division 2 – General trust account](#_heading=h.1hmsyys) | ☐ | ☐ |
| [Division 3 – Controlled money](#_heading=h.41mghml) | ☐ | ☐ |
| [Division 4 – Transit money](#_heading=h.2grqrue) | ☐ | ☐ |
| [Division 5 – Trust money subject to specific power](#_heading=h.vx1227) | ☐ | ☐ |
| [Division 6 – Register of powers and estates in relation to trust money](#_heading=h.3fwokq0) | ☐ | ☐ |
| [Division 7 – Investment of trust money](#_heading=h.1v1yuxt) | ☐ | ☐ |
| [Division 8 – Register of investments](#_heading=h.4f1mdlm) | ☐ | ☐ |
| [Division 9 – Matter files](#_heading=h.2u6wntf) | ☐ | ☐ |
| [Division 10 – Office account](#_heading=h.19c6y18) | ☐ | ☐ |

**Note** Divisions 2 to 8 include a question that allows the person completing the checklist to indicate the whole division is not applicable. It is not required to tick each not applicable box in the division. If, for example, the law practice has not received, disbursed or held controlled money then a tick will be placed in “Not Applicable” and move to the next division.

1. The review period is 1 April to 31 March and is based on compliance with the
*Legal Profession Act 2007* and corresponding *Legal Profession Regulation 2017*.
2. The External Examiner’s Report is required to be completed by a:
	1. registered auditor under the Corporations Act;
	2. the individual must —
		1. be a member of CPA Australia Ltd ACN 008 392 452; and
		2. be entitled to use the letters ‘CPA’ or ‘FCPA’; and
		3. have satisfied the requirements of CPA Australia Ltd CAN 008 392 452 for practice as a public accountant; or
	3. the individual must —
		1. be a member of Chartered Accountants Australia and New Zealand ARBN 084 642 571; and
		2. be entitled to use the letters ‘CA’ or ‘FCPA’; and
		3. have satisfied the requirements Chartered Accountants Australia and New Zealand ARBN 084 642 571 for practice as a public accountant; or
	4. the individual must —
		1. a member of the Institute of Public Accountants ACN 004 130 643; and
		2. entitled to use the letters ‘MIPA’, ‘FIPA’’; and
		3. have satisfied the requirements of the Institute of Public Accountants ACN 004 130 643 for practice as a public accountant; and
		4. have completed a tertiary course of study in accounting with an auditing component from a university or other institution prescribed under the Corporations Act, section 1280(2A)

e) the individual must be a person who the chief executive considers has appropriate qualifications as an auditor under the Corporations Act;

f) the individual must —

i) be an employee or agent of the law society; and

ii) be recognised, by the law society, as having appropriate qualifications or experience for conducting external examinations.

1. 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 Queensland Law Society Incorporated (the Society) in writing within 14 days of such appointment. A notification form – Notification of Appointment or Termination of External Examiner (QLS Form 31) is available on the Society’s website at

<https://www.qls.com.au/Forms-Library>

1. The checklist has been prepared to guide the law practice and External Examiners 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 *Legal Profession Act 2007* and *Legal Profession Regulation 2017*. A responsible officer of the law practice is required to complete the checklist and the External Examiner is required to confirm the accuracy of the self-assessment by the law practice.
2. A completed copy of the Checklist together with other review documentation must be retained by the External Examiner as part of their work papers and a copy of the checklist should be left with the law practice.
3. The external examiner should apply professional judgement together with the various pronouncements of the professional bodies that cover the individual circumstances of each examination.
4. The objective of the Checklist is to assist the law practice and the External Examiner determine that the law practice has maintained trust records:
	1. that are in accordance with the legislation; and
	2. in a way that at all times discloses the true position in relation to trust money received for or on behalf of any person; and
	3. in a way that enables the trust records to be conveniently and properly investigated or externally examined; and
	4. for a period determined in accordance with the legislation.
5. It is necessary to conduct appropriate examination, utilise sampling techniques
and enquiries to form an opinion as to whether the accounting records have been maintained in accordance with the *Legal Profession Act 2007* and *Legal Profession Regulation 2017*. External Examiners must use their own judgement, from the examination of the trust money records, to form an opinion. The Society will not offer advice as to whether an issue in the records warrants a breach of the regulation or a qualified/adverse Report.
6. Breaches of the *Legal Profession Act 2007* or *Legal Profession Regulation 2017* are to be recorded on Schedule 1 of the External Examiner’s Report.
7. All legal practitioners who were principals of a law practice or in the case of a sole principal, the legal practitioner, or in the case of an incorporated legal practice, all legal practitioner directors at any time during the applicable period –1st April to 31st March or part period thereof should be listed in Schedule 2 Part B Item 14 of the External Examiner’s Report. Principals include salaried, non-equity partners as well as equity partners. Practices with interstate principals should include the names of those principals with a note indicating the State issuing the practising certificate.
8. All general trust accounts operated during the period should be included on Schedule 2 Part B Item 2 of the External Examiner’s Report. Examples of where this may be relevant are:
9. change of approved ADI’s
10. change or closure of the relevant branch of the approved ADI
11. opening of additional general trust accounts
12. change of approved ADI account number.

Particular emphasis should be placed upon general trust accounts closed during the reporting period. Any general trust account recorded as having a balance as at 31 March must be included in Schedule 2 Part B Item 2 of the External Examiner’s Report.

1. A listing of approved ADI’s is available on the Society’s website at

<https://www.qls.com.au/Practising-law-in-Qld/Trust-accounts/Approved-ADIs-for-Trust-Accounts>

1. Ascertain all general trust accounts, controlled money accounts, accounts subject
to a power and details of any investment of trust money disclosed by the accounting records that will be subject to the checklist. Details should be summarised as Schedules to Schedule 2 Part B Items 2, 7, 9 and 11 of the External Examiner’s Report.
2. The External Examiner must ensure that every field on the External Examiner’s Report is completed. In areas where an examination is not required, the External Examiner should put “N/A” in the box provided. **If an incomplete External Examiner’s Report is submitted, the Report will not be accepted by the Society and will be returned to the External Examiner as incomplete.** The date of receipt of the Report will be recorded as the date of receipt of a fully completed Report.
3. Transit Money (Section 253(1)) - There is no particular accounting record or register required by the legislation to be maintained for transit money. Law practices entrusted with no other form of trust money other than transit money and/or money received or held within a PEXA source account are not required to lodge an External Examiner’s Report. It should be noted that Section 255 states a law practice must deposit general trust money received in the form of cash in a general trust account of the practice.
4. Trust Money Subject To Specific Powers - Schedule 2 Part B Item 9 of the External Examiner’s Report requires the recording of the total value of trust money subject to a power as at 31 March. If a precise figure cannot be determined, then an approximation should be provided. If a meaningful approximation cannot be made, then the box should be marked “not known”.
5. The External Examiner is required to vouch a number of payment transactions to the source records maintained by the law practice. The method and number of transactions selected is determined by each External Examiner. If the External Examiner is satisfied that the source records substantiate the payment transactions then the External Examiner may determine that the sighting of the paid cheques is not required.
6. The External Examiner’s Report must be lodged with the Society by 30 May. The Report is to be forwarded to

 **The Manager, Trust Account Investigations, Regulation**

 Queensland Law Society Incorporated, Law Society House
179 Ann St, Brisbane, QLD, 4000 or GPO Box 1785 Brisbane 4001

 Email: managertai@qls.com.au

 If the External Examiner’s Report is delayed due to an approved ADI’s delay in providing information, External Examiners are requested to qualify the Report. Once the outstanding information is received, it is imperative that the External Examiner notifies the Society as soon as possible advising that the qualification be lifted.

1. The External Examiner is required to lodge the original External Examiner’s Report with the Society. A copy of the External Examiner’s Report should be left with the law practice together with a copy of the checklist.

# [Division 1 – Trust](#_heading=h.3tbugp1) money

## Section 1 – Keeping of trust records

**Objective** Is 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.** |
| s.59(2) s.261 | 1.1 | Are Trust Records retained for seven years and finalisation of matter? | ☐ | ☐ | ☐ |       |

## Section 2 – Computerised accounting systems

**Objective** Is to ensure that law practices’ computer system complies with the requirements of the legislation.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | **Yes** | **No** | **N/A** | **Comments** |
|  | 2.1 | Are Trust Records maintained by means of a computer system? | ☐ | ☐ | ☐ |       |
| s.30(1) | 2.2 | Is a record kept of all changes (by creation, amendment or deletion) to: | ☐ | ☐ | ☐ |       |
| s.30(1)(a) |   | client name? | ☐ | ☐ | ☐ |       |
| s.30(1)(b) |   | client address? | ☐ | ☐ | ☐ |       |
| s.30(1)(c) |  | matter reference? | ☐ | ☐ | ☐ |       |
| s.30(1)(d) |  | matter description? and | ☐ | ☐ | ☐ |       |
| s.30(1)(e) |  | ledger account number or other descriptor? | ☐ | ☐ | ☐ |       |
| s.30(2) | 2.3 | Is the record retained by the law practice? | ☐ | ☐ | ☐ |       |
| s.31(1) | 2.4 | Does the program accept an entry of a transaction resulting in a debit balance to any ledger account? | ☐ | ☐ | ☐ |       |
| s.31(1) |  | Is a report of such entries produced? | ☐ | ☐ | ☐ |       |
|  | 2.5 | Does the program allow the deletion of a trust account ledger if there: | ☐ | ☐ | ☐ |       |
| s.31(2)(a) |  | (a) is a balance on the ledger? | ☐ | ☐ | ☐ |       |
| s.31(2)(a) |  | (b) are unpresented cheques relating to the ledger? | ☐ | ☐ | ☐ |       |
| s.31(2)(b) | 2.6 | Are copies of deleted ledgers retained in permanent form? | ☐ | ☐ | ☐ |       |
| s.31(3) | 2.7 | Are the entries in records produced in permanent form in chronological sequence | ☐ | ☐ | ☐ |       |
| s.31(4) | 2.8 | Are pages of printed reports numbered sequentially? | ☐ | ☐ | ☐ |       |
| s.31(5) | 2.9 | Are entries already recorded capable of being amended otherwise than by a transaction separately recorded? | ☐ | ☐ | ☐ |       |
| s.32(a) | 2.10 | Is a back-up copy of all records made at least once per month?  | ☐ | ☐ | ☐ |       |
| s.32(c) | 2.11 | 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** |
|  s.54(1) | 3.1 | The objective is to ensure that Trust Accounts Statements are sent for all Trust Money received**Note** The provisions of regulation 53 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. | ☐ | ☐ | ☐ |       |
|  | 3.2 | Are trust account statements issued as soon as practicable after: | ☐ | ☐ | ☐ |       |
| s.53(6)(a) |  | (a) completion of each matter? | ☐ | ☐ | ☐ |       |
| s.53(6)(b) |  | (b) a reasonable request? | ☐ | ☐ | ☐ |       |
| s.53(6)(c) | 3.3 | Are trust account statements sent after 30 June each year?  | ☐ | ☐ | ☐ |       |
|  | 3.4 | If statements were not sent for certain accounts, | ☐ | ☐ | ☐ |       |
| s.53(7)(a) |  | (a) were the ledger accounts open for less than six months? or | ☐ | ☐ | ☐ |       |
| s.53(7)(b) |  | (b) was the balance of the ledger accounts zero and no transaction had taken place within the previous 12 months? or | ☐ | ☐ | ☐ |       |
| s.53(7)(c) |  | (c) a trust account statement had been furnished within the previous 12 months and there had been no subsequent transactions affecting the ledger account or record?  | ☐ | ☐ | ☐ |       |
|  | 3.5 | Do trust account statements disclose: | ☐ | ☐ | ☐ |       |
| s.53(5)(a) |  | (a) the same detail as required by sections 42 or 51 & 55 of the *Legal Profession Regulation 2017*? | ☐ | ☐ | ☐ |       |
| s.53(5)(b) |  | (b) the remaining balance (if any) of the money ? | ☐ | ☐ | ☐ |       |
| s.53(8) | 3.6 | Are copies of trust account statements retained? | ☐ | ☐ | ☐ |       |

## Section 4 – Withdrawing trust money for legal costs

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | **Yes** | **No** | **N/A** | **Comments** |
| s.58(1) | 4.1 | The objective is to ensure the law practice is complying with the procedures concerning the withdrawal of money from a trust or controlled money account for legal costs. **Note** This clause prescribes, for the purpose of section **258(1)(b)** of the *Legal Profession Act 2007*, trust money, held in a general trust account or controlled money account of a law practice for a person may only be withdrawn, for payment of legal costs owing to the practice by the person, in accordance with the procedure set out in subsection (2), (3), (4) or (5). | ☐ | ☐ | ☐ |       |
| s.58(2) | 4.2  | The law practice may withdraw the trust money:(a) if the law practice has given the person a bill relating to the money; and (b) if - (i) the person has not objected to 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 costs assessment within 60 days after being given the bill; or(iii) the money otherwise becomes legally payable. | ☐ | ☐ | ☐ |       |
| s.58(3) | 4.3 | The law practice may withdraw the trust money, whether or not the law practice has given the person a bill relating to the money, if – (a) the money is withdrawn in accordance with –(i) a costs agreement that complies with the legislation under which it is made and that authorises the withdrawal; or(ii) instructions received by the practice and that authorise the withdrawal; and(b) the practice, before withdrawing the money, gives or sends to the person –(i) a request for payment, referring to the proposed withdrawal; or(ii) a written notice of withdrawal. | ☐ | ☐ | ☐ |       |
| s.58(4) | 4.4 | The law practice may withdraw the trust money if - (a) the money is owed to the law practice by way of reimbursement of money already paid by the law practice on behalf of the person; and (b) the practice, before withdrawing the money, gives or sends to the person -  (i) a request for payment, referring to the proposed withdrawal; or  (ii) written notice of withdrawal. | ☐ | ☐ | ☐ |       |
| s.58(5) | 4.5 | If a cost agreement or instruction, mentioned in subsection (3)(a), authorises withdrawal of only part of the money, the remainder of the money may still be withdrawn in accordance with subsection (2) or (4). | ☐ | ☐ | ☐ |       |
| s.58(6) | 4.6 | An instruction mentioned in subsection (3)(a)(ii)- (a) if the instruction is given in writing–must be kept as a permanent record; or(b) otherwise must be confirmed in writing both before, or within 5 working days after, the law practice withdraws the money and a copy must be kept as a permanent record. | ☐ | ☐ | ☐ |       |
| s.58(7) | 4.7 | For the purposes of subsection (4), money is taken to have been paid by the law practice on behalf of the person when the relevant account of the law practice has been debited. | ☐ | ☐ | ☐ |       |
| s.58 | 4.8 | Have withdrawals from the general trust account or controlled money account been in accordance with either sections 58(2), 58(3) or 58(4) of the *Legal Profession Regulation 2017* | ☐ | ☐ | ☐ |       |

## Section 5 – Notification of Authorised Signatories

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | **Yes** | **No** | **N/A** | **Comments** |
|  |  | **NOTE:** Notification of principals who hold local practising certificates is not required. |  |  |  |  |
| s.37(3) & 38(2) | 5.1 | Have person(s) other than the principals of the law practice that 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): | ☐ | ☐ | ☐ |       |
| s.37(3)(i) & 38(2)(1) |   | (a) an authorised legal practitioner associate, or | ☐ | ☐ | ☐ |       |
| s.37(3)(ii) & 38(2)(ii) |   | (b) an authorised Australian legal practitioner who holds an unrestricted practising certificate authorising the receipt of trust money, or  | ☐ | ☐ | ☐ |       |
| s.37(3)(iii) & 38(2)(iii) |  | (c) two or more authorised associates jointly. | ☐ | ☐ | ☐ |       |
|  | 5.3 | Has the law practice given written notice to the Queensland Law Society Incorporated within 14 days of the: | ☐ | ☐ | ☐ |       |
| s.46(2)(a) |  | (i) Appointment of an authorised signature? | ☐ | ☐ | ☐ |       |
| s.46(2)(a) |  | (ii) Termination of an authorised signature? | ☐ | ☐ | ☐ |       |
| s.46(2)(b) |  | (iii) Authorised signatories as at 1st July? | ☐ | ☐ | ☐ |       |

# [Division 2 – General trust accoun](#_heading=h.3tbugp1)t

## Section 1 – General trust accounts

**Objective** To ensure a law practice that receives money that is required to be banked 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.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | **Yes** | **No** | **N/A** | **Comments** |
| s.249(1) | 1.1 | Has General Trust Money been received, held or disbursed during the applicable period? | ☐ | ☐ | ☐ | **If response is "NO" go to Division 3** |
| s.33(2)(a) |  | is it established with an approved ADI in this jurisdiction? | ☐ | ☐ | ☐ |       |
|  |  | is the account maintained within this jurisdiction? | ☐ | ☐ | ☐ |       |
|  | 1.2 | For a trust account opened on or after 1 July 2007: | ☐ | ☐ | ☐ |       |
| s.33(2)(c)(i) |  | (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 ? | ☐ | ☐ | ☐ |       |
| s.33(2)(c)(ii) |  | (ii) does the name of the account include the expression “law practice trust account” or “law practice trust a/c” ? | ☐ | ☐ | ☐ |       |
|  | 1.3 | Has the law practice notified the Queensland Law Society Incorporated within 14 days of: | ☐ | ☐ | ☐ |       |
| s.46(1) |  | (i) opening a general trust account? | ☐ | ☐ | ☐ |       |
| s.46(3) |  | (ii) closing general trust account | ☐ | ☐ | ☐ |       |
|  |  | (iii) do the account details detailed at Item 2 Part B Law Practice Statutory Declaration & Trust Money Statement agree with the statements examined? | ☐ | ☐ | ☐ |       |

**Section 2 – Trust account receipts**

**Objective** To ensure that a general trust account receipt is issued promptly in respect 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** |
| s.34(2) | 2.1 | Are trust receipts made out for money that is required to be deposited into a general trust account?  | ☐ | ☐ | ☐ |       |
| s.34(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 cashbook. | ☐ | ☐ | ☐ |       |
|  | 2.3 | Are the receipts consecutively numbered and issued in consecutive sequence? | ☐ | ☐ | ☐ |       |
|  | 2.4 | Do the original and duplicate receipts include:  | ☐ | ☐ | ☐ |       |
| s.34(5)(g) |  | (i) the law practice name or business name under which the law practice engages in legal practice?; | ☐ | ☐ | ☐ |       |
| s.34(5)(g) |  | (ii) the expression “Trust Account” or “Trust A/c”?  | ☐ | ☐ | ☐ |       |
|  | 2.5 | Do the receipts include:  | ☐ | ☐ | ☐ |       |
| s.34(5)(a) |  | the date the receipt is made out, and if different, the date of the receipt of the money? | ☐ | ☐ | ☐ |       |
| s.34(5)(b) |  | the amount of money received? | ☐ | ☐ | ☐ |       |
| s.34(5)(c) |  | the form in which the money is received? | ☐ | ☐ | ☐ |       |
| s.34(5)(d) |  | the name of the person from whom the money is received? | ☐ | ☐ | ☐ |       |
| s.34(5)(e) |   | the name of the client, matter description and matter reference? | ☐ | ☐ | ☐ |       |
| s.34(5)(f) |  | the purpose for which the money was received? | ☐ | ☐ | ☐ |       |
| s.34(5)(h) |  | the name of the person who made out the receipt? | ☐ | ☐ | ☐ |       |
| s.34(5)(i) |  | the number of the receipt? | ☐ | ☐ | ☐ |       |
|  | 2.6 | Does the law practice retain:  | ☐ | ☐ | ☐ |       |
| s.34(8)  |   | (i) the original of any cancelled receipt or receipt not delivered?  | ☐ | ☐ | ☐ |       |
|  | 2.7 | List serial numbers of all receipts issued during the reporting period, used subsequent to the period,unused and on hand at the time of the examination. | ☐ | ☐ | ☐ |       |

## Section 3 – Deposits

**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 banked.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | **Yes** | **No** | **N/A** | **Comments** |
|  s.248(1) | 3.1 | Is money deposited as soon as practicable after it is received? | ☐ | ☐ | ☐ |       |
| s.35(2) | 3.2 | Is a deposit record produced to the approved ADI at the time of making the deposit?  | ☐ | ☐ | ☐ |       |
|  | 3.3 | Do deposit records include particulars of the following: | ☐ | ☐ | ☐ |       |
| s.35(3)(a) |  | the date of deposit? | ☐ | ☐ | ☐ |       |
| s.35(3)(b) |  | the amount of deposit? | ☐ | ☐ | ☐ |       |
| s.35(3)(c) |  | the form of deposit? | ☐ | ☐ | ☐ |       |
|  |  | for each cheque to be banked: | ☐ | ☐ | ☐ |       |
| s.35(3)(i)  |  | (i) name of drawer? | ☐ | ☐ | ☐ |       |
| s.35(3)(ii) |  | (ii) (a) name of ADI? and | ☐ | ☐ | ☐ |       |
| s.35(3)(ii) |  | * + - * 1. branch or BSB number?
 | ☐ | ☐ | ☐ |       |
| s.35(3)(iii) |  | (iii) amount? | ☐ | ☐ | ☐ |       |
| s.35(4) | 3.4 | Is the deposit record made out in duplicate? | ☐ | ☐ | ☐ |       |
| s.35(5) | 3.5 | Is the duplicate deposit record retained? | ☐ | ☐ | ☐ |       |

## 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** |
|  | **4A** | **Trust cheques** | ☐ | ☐ | ☐ |       |
|  | 4A.1 | Have all funds drawn from the trust account been by way of: | ☐ | ☐ | ☐ |       |
| s.37(1) |  | (a) Trust cheque? | ☐ | ☐ | ☐ |       |
| s.38(1) |  | (b) Electronic funds transfer (if approved)? | ☐ | ☐ | ☐ |       |
|  | 4A.2 | Do cheques include: | ☐ | ☐ | ☐ |       |
| s.37(2)(a) |  | (a) a direction to pay to the order of a stated person? | ☐ | ☐ | ☐ |       |
| s.37(2)(b) |  | (b) crossing “not negotiable”? | ☐ | ☐ | ☐ |       |
| s.37(2)(c)(i) |  | (c) the law practice name? | ☐ | ☐ | ☐ |       |
| s.37(2)(c)(ii) |  | (d) the expression “law practice trust account” or “law practice trust a/c”? (only applicable to accounts opened after 1 July 2007) | ☐ | ☐ | ☐ |       |
| s.37(4) | 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) mustbe 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 cashbook. | ☐ | ☐ | ☐ |       |
|  | 4A.4 | Do the written records include:  | ☐ | ☐ | ☐ |       |
| s.37(6)(a) |  | the date of issue and number of the cheque?  | ☐ | ☐ | ☐ |       |
| s.37(6)(b) |  | the amount? | ☐ | ☐ | ☐ |       |
| s.37(6)(c) |  | the name of the person to whom the payment is made ?or | ☐ | ☐ | ☐ |       |
|  |  | in the case of a cheque made payable to an ADI, the name of the ADI and the name of the person receiving the benefit of the payment | ☐ | ☐ | ☐ |       |
| s.37(6)(d) |  | the name of the person on whose behalf the payment was made and the matter reference? | ☐ | ☐ | ☐ |       |
| s.37(6)(e) |  | details identifying the ledger account to be debited? | ☐ | ☐ | ☐ |       |
| s.37(6)(f) |  | the purpose of the payment? | ☐ | ☐ | ☐ |       |
| s.37(7) | 4A.5 | Are written records relating to payments by cheque stored in the order in which cheques were issued? | ☐ | ☐ | ☐ |       |
|  | **4B** | **Electronic Funds Transfers (EFT)** | ☐ | ☐ | ☐ |       |
| s.250(1)(b) | 4B.1 | Does the law practice have authority from the Society to disburse funds via Electronic Funds Transfer? | ☐ | ☐ | ☐ |       |
| s.38(3) | 4B.2 | Is a written record kept evidencing the Electronic Funds Transfer? | ☐ | ☐ | ☐ |       |
|  | 4B.3 | Do the records kept evidencing an electronic funds transfer include: | ☐ | ☐ | ☐ |       |
| s.38(5)(a) |  | the date and the sequential assigned reference number of the transaction?  | ☐ | ☐ | ☐ |       |
| s.38(5)(b) |   | the amount transferred? | ☐ | ☐ | ☐ |       |
| s.38(5)(c) |  | (i) the name of the account to which the amount was transferred? | ☐ | ☐ | ☐ |       |
| s.38(5)(c) |  | (ii) the number and BSB of the account to which the amount was transferred? | ☐ | ☐ | ☐ |       |
| s.38(5)(d) |  | the name of the person to whom the payment was made?  | ☐ | ☐ | ☐ |       |
| s.38(5)(e) |  | (i) details identifying the name of the person on whose behalf the payment was made? | ☐ | ☐ | ☐ |       |
| s.38(5)(e) |   | (ii) the matter reference? | ☐ | ☐ | ☐ |       |
| s.38(5)(f) |  | details clearly identifying the ledger account to be debited? | ☐ | ☐ | ☐ |       |
| s.38(5)(g) |  | the purpose for which the payment was made? | ☐ | ☐ | ☐ |       |
| s.38(6)  | 4B.4 | Are written records of payments by electronic funds transfers stored in the order in which the transfers were effected? | ☐ | ☐ | ☐ |       |
|  | **4C** | Have a number of selected paid cheques been reviewed? | ☐ | ☐ | ☐ |       |
|  | **4D** | Does the payee on the selected paid cheque agree with the cashbook and trust ledger account? | ☐ | ☐ | ☐ |       |
|  | **4E** | Have the cheques been signed by a persons authorised to sign trust cheques? | ☐ | ☐ | ☐ |       |
|  | **4F** | Have EFTs been authorised by a person(s) who is/are authorised to make EFT payments? | ☐ | ☐ | ☐ |       |

## Section 5 – Trust account receipts and payments cashbooks

**Objective** To ensure that trust account cashbooks have been properly kept.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | **Yes** | **No** | **N/A** | **Comments** |
|  | **5A** | **Trust account receipts and payments cashbook general** | ☐ | ☐ | ☐ |       |
|  |  | Have the trust account receipts cashbooks been totalled for each month? | ☐ | ☐ | ☐ |       |
|  |  | Have the trust account payments cashbooks been totalled for each month? | ☐ | ☐ | ☐ |       |
|  | **5B** | **Trust account receipts cashbook** | ☐ | ☐ | ☐ |       |
|  | 5B.1 | Are the following particulars recorded in the Trust Account Receipts Cashbook for each receipt of trust money  | ☐ | ☐ | ☐ |       |
| s.40(1)(a) |  | the date a receipt was made out for the money and, if different, the date of receipt of the money?  | ☐ | ☐ | ☐ |       |
| s.40(1)(b) |   | the receipt number? | ☐ | ☐ | ☐ |       |
| s.40(1)(c) |   | the amount of money received? | ☐ | ☐ | ☐ |       |
| s.40(1)(d) |  | the form in which the money was received? | ☐ | ☐ | ☐ |       |
| s.40(1)(e) |  | the name of the person from whom the money was received? | ☐ | ☐ | ☐ |       |
| s.40(1)(f) |   | the name of the client in respect of whom the money was received, the matter description and the matter reference? | ☐ | ☐ | ☐ |       |
| s.40(1)(g) |  | particulars sufficient to identify the purpose of the receipt? | ☐ | ☐ | ☐ |       |
| s.40(1)(h) |  | the ledger account to be credited? | ☐ | ☐ | ☐ |       |
| s.40(2) | 5B.2 | the date and amount of each deposit? | ☐ | ☐ | ☐ |       |
| s.40(3) | 5B.3 | Are receipts recorded in the order in which they are made out? | ☐ | ☐ | ☐ |       |
| s.40(4) | 5B.4 | Have particulars of receipts been recorded within 5 working days of the receipt being made out? | ☐ | ☐ | ☐ |       |
|  | **5C** | **Trust account payments cashbook** | ☐ | ☐ | ☐ |       |
|  | 5C.1 | Are the following particulars recorded in the Trust Account Payments Cashbook for each payment of trust money by cheque  | ☐ | ☐ | ☐ |       |
| s.41(1)(a) |  | the date of the cheque and cheque number? | ☐ | ☐ | ☐ |       |
| s.41(1)(b) |  | the amount ordered to be paid by the cheque? | ☐ | ☐ | ☐ |       |
| s.41(1)(c) |   | the name of the person to whom the payment is to be made? or | ☐ | ☐ | ☐ |       |
| s.41(1)(c) |  | In the case of a cheque made payable to an ADI(i) the name or BSB number of the ADI? and(ii) the name of the person receiving the benefit of the payment? | ☐ | ☐ | ☐ |       |
| s.41(1)(d) |  | the name of the person on whose behalf the payment was made and the matter reference? | ☐ | ☐ | ☐ |       |
| s.41(1)(e) |   | details clearly identifying the ledger account to be debited?  | ☐ | ☐ | ☐ |       |
| s.41(1)(f) |   | particulars sufficient to identify the purpose of the payment? | ☐ | ☐ | ☐ |       |
|   | 5C.2 | For payments by electronic funds transfer, are the following recorded: | ☐ | ☐ | ☐ |       |
| s.41(2)(a) |   | the date of the transaction and transaction number? | ☐ | ☐ | ☐ |       |
| s.41(2)(b) |  | the amount transferred? | ☐ | ☐ | ☐ |       |
| s.41(2)(c) |  | the name and number of the account to which the amount was transferred, and the relevant BSB? | ☐ | ☐ | ☐ |       |
| s.41(2)(d) |  | the name of the person to whom the payment was made? or | ☐ | ☐ | ☐ |       |
|  |  | in the case of a transfer made payable to an ADI,  | ☐ | ☐ | ☐ |       |
| s.41(2)(e) |  | (i) details identifying the name of the person on whose behalf the payment was made? and | ☐ | ☐ | ☐ |       |
| s.41(2)(e) |  | (ii) the matter reference? | ☐ | ☐ | ☐ |       |
| s.41(2)(f) |  | the ledger account to be debited? | ☐ | ☐ | ☐ |       |
| s.41(2)(f) |  | the purpose for which the payment was made? | ☐ | ☐ | ☐ |       |
| s.41(3) | 5C.3 | Are payments recorded in the order in which they are made? | ☐ | ☐ | ☐ |       |
| s.41(4) | 5C.4 | Have particulars of payments been recorded within 5 working days of the payment being made? | ☐ | ☐ | ☐ |       |

## Section 6 – Trust journal

**Objective** To ensure that are no transfers without the use of the trust journal and the required details is recorded for each trust journal.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | **Yes** | **No** | **N/A** | **Comments** |
| s.43(2) | **6.1** | Have the journal transfers been authorised in writing by an authorised trust account signatory? | ☐ | ☐ | ☐ |       |
|  | **6.2** | Are the following particulars recorded for each journal transfer: | ☐ | ☐ | ☐ |       |
| s.43(4)(a) |   | the date of the transfer? | ☐ | ☐ | ☐ |       |
| s.43(4)(b) |  | the trust ledger account from which the money is transferred? | ☐ | ☐ | ☐ |       |
| s.43(4)(c) |   | the trust ledger account to which the money is transferred? | ☐ | ☐ | ☐ |       |
| s.43(4)(d) |   | the amount transferred ? | ☐ | ☐ | ☐ |       |
| s.43(4)(e) |  | (i) the purpose of the transfer?  | ☐ | ☐ | ☐ |       |
| s.43(4)(e) |  | (ii) the matter reference ? | ☐ | ☐ | ☐ |       |
| s.43(4)(e) |  | (iii) the matter description ? | ☐ | ☐ | ☐ |       |
| s.43(5)  | **6.3** | Are journal pages or entries consecutively numbered? | ☐ | ☐ | ☐ |       |
| s.43(6) | **6.4** | Are particulars of the authorisation for each transfer kept? | ☐ | ☐ | ☐ |       |

## Section 7A – 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 |
| s.42(1) | 7A.1 | Is a separate ledger account opened for each matter for which trust money has been received? | ☐ | ☐ | ☐ |       |
|   | 7A.2 | Does each ledger account include in the title: | ☐ | ☐ | ☐ |       |
| s.42(2)(a) |   | the name of the person? | ☐ | ☐ | ☐ |       |
| s.42(2)(b) |  | the person’s address? | ☐ | ☐ | ☐ |       |
| s.42(2)(c) |  | sufficient matter description and reference? | ☐ | ☐ | ☐ |       |
| s.42(3) | 7A.3 | Are details of any changes to the title of a trust ledger recorded? | ☐ | ☐ | ☐ |       |
|  | 7A.4 | Are the following particulars recorded in the trust ledger account for receipts, payments or journal transfers:  | ☐ | ☐ | ☐ |       |
| s.42 |  | the date the receipt, payment voucher or journal transfer was made out? 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? | ☐ | ☐ | ☐ |       |
| s.42 |  | the receipt, cheque or journal transfer number? | ☐ | ☐ | ☐ |       |
| s.42 |  | the amount received, paid or transferred? | ☐ | ☐ | ☐ |       |
| s.42 |  | the name of the person the money was received, paid or transferred? | ☐ | ☐ | ☐ |       |
| s.42 |  | the reason the money was received, paid or transferred? | ☐ | ☐ | ☐ |       |
| s.42(5) | 7A.5 | Additionally for (i) cheques drawn to an Approved ADI (‘bank cheques”) does the trust account ledger disclose: | ☐ | ☐ | ☐ |       |
| s.42(5)(c) |  | (b) the name or BSB number of the ADI the name of the person receiving the benefit? | ☐ | ☐ | ☐ |       |
|  |  | (ii) for electronic funds transfers, do the trust account ledgers disclose: | ☐ | ☐ | ☐ |       |
| s.42(6)(c) |  | (a) the name and number of the account to which the amount was transferred, and | ☐ | ☐ | ☐ |       |
| s.42(6)(d) |  | (b) the name of the person to whom the money was transferred? | ☐ | ☐ | ☐ |       |

## Section 7B – Trust ledger account in name of law practice or legal practitioner associate’s

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes | No | N/A | Comments |
|  | 7B.1 | Does the trust ledger contain an account in the name of: | ☐ | ☐ | ☐ |  |
| s.45(1) |  | (i) the law practice, or | ☐ | ☐ | ☐ |       |
| s.45(2) |  | (ii) an associate of the law practice? | ☐ | ☐ | ☐ |       |
|  | 7B.2 | Is the use this trust ledger account restricted to: | ☐ | ☐ | ☐ |       |
| s.45(2)  |  | (a) a clearing account for transferring legal costs, or | ☐ | ☐ | ☐ |       |
| s.45(2)(a)  |  | (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?  | ☐ | ☐ | ☐ |       |
| s.45(3) | 7B.3 | If a clearing account is used, have the funds been withdrawn within 1 month of being transferred to the account? | ☐ | ☐ | ☐ |       |
| s.45(4) | 7B.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)? | ☐ | ☐ | ☐ |       |

#

## Section 8 – 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** |
|  | **8A** | **Reconciliation statements** | ☐ | ☐ | ☐ |       |
| s.44(1)  | 8A.1 | Have reconciliation statements been prepared for each month?  | ☐ | ☐ | ☐ |       |
| s.44(2) | 8A.2 | Do the reconciliation statements disclose the month to which they refer? and | ☐ | ☐ | ☐ |       |
| s.44(2)(a)(i) |  | (i) Do the reconciliation statements accurately reflect the reconciliation of the balance(s) of the general trust (Approved ADI) account(s) with the balance(s) of the cashbook(s)? | ☐ | ☐ | ☐ |       |
| s.44(2)(a)(ii) |  | (ii) Is the date that each reconciliation statement was prepared shown? | ☐ | ☐ | ☐ |       |
| s.44(2)(b)(i) |  | (i) does the balance of the trust ledger accounts reconcile with the trust account cashbooks; and | ☐ | ☐ | ☐ |       |
| s.44(2)(b)(ii) |  | (ii) does the law practice maintain a list of trust accounts showing the name, identifying reference and the balance of each and a short description of the matter to which each relates; and  | ☐ | ☐ | ☐ |       |
| s.44(2)(b)(iii) |  | (iii) does the statement show the date it was prepared? | ☐ | ☐ | ☐ |       |
| s.44(3) | 8A.3 | The reconciliation statements must be-  | ☐ | ☐ | ☐ |       |
| s.44(3)(a) |  | prepared within 15 working days after the end of the month concerned; and | ☐ | ☐ | ☐ |       |
| s.44(3)(b) |  | are the statements reviewed by a principal of the law practice; and | ☐ | ☐ | ☐ |       |
| s.44(3)(c) |  | annotated in a way that evidences the completion of the review by the principal of the law practice; and | ☐ | ☐ | ☐ |       |
| s.44(3)(d) |  | are these records kept by the law practice? | ☐ | ☐ | ☐ |       |
|  | 8A.4 | Have all reconciling items been reviewed? | ☐ | ☐ | ☐ |       |
|  | 8A.5 | (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? | ☐ | ☐ | ☐ |       |
|   | 8A.6 | (i) Does the Approved ADI statement balance agree with the Approved ADI statement balance shown on the reconciliation statement as at 31 March? or | ☐ | ☐ | ☐ |       |
|  |  | (ii) As at the date of closure of the account? | ☐ | ☐ | ☐ |       |
|  | **8B** | **Trust trial balance statements** | ☐ | ☐ | ☐ |       |
|  |  | **NOTE:** Ledger accounts with a zero balance at the end of the relevant month do not have to be included in the trial balance statement. | ☐ | ☐ | ☐ |       |
|   | 8B.1 | Have any discrepancies between trial balance and cashbook been satisfactorily noted, explained and subsequently adjusted? | ☐ | ☐ | ☐ |       |
|  | 8B.2 | Have all debit balances 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.3:** |
|  | 8B.3 | Are details of the overdrawn ledger accounts outlined in Schedule 2 Part B Item 3 of the Law Practice Statutory Declaration & Trust Money Statement, including duration of debit balance, method of restoration (if applicable)? | ☐ | ☐ | ☐ |       |

# [Division 3 – Controlled money](#_heading=h.3tbugp1)

## Section 1

**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.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes | No | N/A | Comments |
| s.251 | 1.1 | Has Controlled Money been received, held or disbursed during the applicable period.  | ☐ | ☐ | ☐ | **If response is “NO” go to Division 4** |
|  | 1.2 | If the controlled money account was opened after 1July 2007, does the name of the controlled money account include: | ☐ | ☐ | ☐ |       |
| s.47(1)(a) |  | the name of the law practice concerned? | ☐ | ☐ | ☐ |       |
| s.47(1)(b) |  | the expression "controlled money account" or the abbreviation “CMA” or “CM A/c”? | ☐ | ☐ | ☐ |       |
| s.47(1)(c) |  | such particulars as are sufficient to identify the purpose of the account and to distinguish the account from any other account kept by the law practice? | ☐ | ☐ | ☐ |       |
| s.47(2) | 1.3 | For controlled money accounts opened after 1st July 2007, have written directions been obtained to open? | ☐ | ☐ | ☐ |       |

## 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 |
| s.48(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? | ☐ | ☐ | ☐ |       |
| s.48(3) | 2.2 | Is a controlled money receipt made out for the receipt of controlled money excluding interest received into the controlled money account? | ☐ | ☐ | ☐ |       |
| s.48(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. | ☐ | ☐ | ☐ |       |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 2.4 | Do the receipts include: | ☐ | ☐ | ☐ |       |
| s.48(6)(h) |  | (i) the name of the law practice, or the business name under which the law practice engages in legal practice, and the expression “controlled money receipt”? | ☐ | ☐ | ☐ |       |
|  | 2.5 | Do the receipts include the following required particulars: | ☐ | ☐ | ☐ |       |
| s.48(6)(a) |  | (i) the date the receipt is made out and, if different, the date of receipt of the money? | ☐ | ☐ | ☐ |       |
| s.48(6)(b) |  | the amount of money received? | ☐ | ☐ | ☐ |       |
| s.48(6)(c) |  | the form in which the money was received? | ☐ | ☐ | ☐ |       |
| s.48(6)(d) |  | the name of the person from whom the money was received? | ☐ | ☐ | ☐ |       |
| s.48(6)(e) |  | (i) details clearly identifying the name of the person on whose behalf the money was received? and | ☐ | ☐ | ☐ |       |
| s.48(6)(e) |  | (ii) the matter description? and  | ☐ | ☐ | ☐ |       |
| s.48(6)(e) |  | (iii) the matter reference? | ☐ | ☐ | ☐ |       |
| s.48(6)(f) |  | particulars sufficient to identify the purpose of the receipt? | ☐ | ☐ | ☐ |       |
| s.48(6)(g) |  | the name of and other details identifying the controlled money account to be credited?  | ☐ | ☐ | ☐ |       |
| s.48(6)(i) |  | the name of the person who made out the receipt? | ☐ | ☐ | ☐ |       |
| s.48(6)(j) |  | the number of the receipt? | ☐ | ☐ | ☐ |       |
|  | 2.6 | Are controlled money receipts: | ☐ | ☐ | ☐ |       |
| s.48(9) |  | (i) consecutively numbered? and | ☐ | ☐ | ☐ |       |
| s.48(9) |  | (ii) issued in consecutive sequence? | ☐ | ☐ | ☐ |       |
| s.48(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 andthata written record disclosing the required particulars is kept for each withdrawal of controlled money.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | **Yes**  | **No** | **N/A** | **Comments** |
| s.50(2) | 3.1 | Has the withdrawal occurred by cheque or EFT? or | ☐ | ☐ | ☐ |       |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| s.50(3) | 3.2 | Has the withdrawal occurred under the direction of or with the authority of- | ☐ | ☐ | ☐ |       |
| s.50(3)(a) |  | an authorised principal of the law practice? or | ☐ | ☐ | ☐ |       |
| s.50(3)(b) |  | if a principal mentioned in paragraph (a) is not available- | ☐ | ☐ | ☐ |       |
| s.50(3)(b)(i) |  | has the direction occurred from an authorised legal practitioner associate? or | ☐ | ☐ | ☐ |       |
| s.50(3)(b)(ii) |  | has an authorised Australian legal practitioner who holds an unrestricted practising certificate authorised the receipt of trust money? or | ☐ | ☐ | ☐ |       |
| s.50(3)(b)(iii) |  | has 2 or more authorised associates authorised the receipt of trust money jointly? | ☐ | ☐ | ☐ |       |
| s.50(4) | 3.3 | has a computerised or written record of the required particulars been kept for each withdrawal?  | ☐ | ☐ | ☐ |       |
| s.50(5) | 3.4 | At the time of the withdrawal, if the required particulars were recorded by a computer program; then has a written record been kept to ensure the accuracy of the particulars recorded by the computer program? | ☐ | ☐ | ☐ |       |
| s.50(6) | 3.5 | For subsections (4) and (5), the following are required particulars- |  |  |  |  |
| s.50(6)(a) |  | is there a date and number of the transaction? | ☐ | ☐ | ☐ |       |
| s.50(6)(b) |  | the amount withdrawn? | ☐ | ☐ | ☐ |       |
| s.50(6)(c) |  | if the transfer was made by electronic funds transfer, is there a name and number of the amount to which the amount was transferred and the relevant BSB number? | ☐ | ☐ | ☐ |       |
| s.50(6)(d) |  | is the name of the person to whom payment was made to or, if the payment was to an ADI, is the name or BSB number of the ADI and the name of the person receiving the benefit of the payment recorded? | ☐ | ☐ | ☐ |       |
| s.50(6)(e) |  | does the details clearly identify the name of the person on whose behalf the payment was made and the matter reference? | ☐ | ☐ | ☐ |       |
| s.50(6)(f) |  | do the particulars sufficiently identify the purpose for which the payment was made? | ☐ | ☐ | ☐ |       |
| s.50(6)(g) |  | does the record clearly detail the person or persons effecting, directing or authorising the withdrawal? | ☐ | ☐ | ☐ |       |
| s.50(7) | 3.6 | Are the particulars recorded in the order in which the payments are recorded? and | ☐ | ☐ | ☐ |       |
| s.50(7) |  | are these particulars recorded separately for each controlled money account? | ☐ | ☐ | ☐ |       |
| s.50(8) | 3.7 | Has the authorisation been made by the law practice to effect, direct or given authority for a withdrawal of money from the controlled account? **Note** In section 50 of the *Legal Profession Regulation 2017* –***authorised*** means authorised by the law practice | ☐ | ☐ | ☐ |       |

## 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** |
| s.51(1) | 4.1 | Does the law practice maintain a register of controlled money? and | ☐ | ☐ | ☐ |       |
| s.51(1) |  | Does the controlled money register consist of the records of controlled money movements? | ☐ | ☐ | ☐ |       |
| s.51(2) | 4.2 | Is a separate record of controlled money movements kept for each controlled money account? | ☐ | ☐ | ☐ |       |
| s.51(3) | 4.3 | A record of controlled money movements for a controlled money account must record the following information- |  |  |  |  |
| s.51(3)(a) |  | is there a name of the person on whose behalf the controlled money is held? | ☐ | ☐ | ☐ |       |
| s.51(3)(b) |  | is there a person’s address? | ☐ | ☐ | ☐ |       |
| s.51(3)(c) |  | does the particulars sufficiently identify the matter? | ☐ | ☐ | ☐ |       |
| s.51(3)(d) |  | are there any changes to the information mentioned in paragraphs (a) to (c)? | ☐ | ☐ | ☐ |       |
| s.51(4) | 4.4 | The following particulars must be recorded in a record of controlled money movements for a controlled money account-  |  |  |  |  |
| s.51(4)(a) |  | the date the controlled money was received? | ☐ | ☐ | ☐ |       |
| s.51(4)(b) |  | the number of the receipt? | ☐ | ☐ | ☐ |       |
| s.51(4)(c) |  | the date when the money was deposited in the controlled money account? | ☐ | ☐ | ☐ |       |
| s.51(4)(d) |  | the name of and other details clearly identifying the controlled money account? | ☐ | ☐ | ☐ |       |
| s.51(4)(e) |  | the amount of the controlled money deposited? | ☐ | ☐ | ☐ |       |
| s.51(4)(f) |  | sufficient details to identifying the deposit? | ☐ | ☐ | ☐ |       |
| s.51(4)(g) |  | was any interest received? | ☐ | ☐ | ☐ |       |
| s.51(4)(h) |  | is there details of any payments from the controlled money account, including the particulars required to be recorded under section 50? | ☐ | ☐ | ☐ |       |
| s.51(5) | 4.5 | Are the particulars of receipts and payments entered into the register after the controlled money was received or payment was made by the law practice? | ☐ | ☐ | ☐ |       |
| s.51(6) | 4.6 | Has interest and other income received in relation to controlled money been entered into the register after the law practice was notified of its receipt? | ☐ | ☐ | ☐ |       |
| s.51(7) | 4.7 | Has the law practice kept all supporting information, including ADI statements and notifications of interest received, relating to controlled money as a part of its trust records? | ☐ | ☐ | ☐ |       |

## Section 5 – Controlled money listing of accounts

**Objective** To ensure that listing 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** |
| s.51(8) | 5.1 | Within 15 working days after each named month, the law practice must prepare and keep as a permanent record a statement as at the end of the named month- |  |  |  |  |
| s.51(8)(a) |  | does the law practice contain a list of the practice’s controlled money accounts? and does it show- | ☐ | ☐ | ☐ |       |
| s.51(8)(a)(i) |  | the name, number and balance of each account in the register? and | ☐ | ☐ | ☐ |       |
| s.51(8)(a)(ii) |  | the name of the person on whose behalf the controlled money in each account was held? and | ☐ | ☐ | ☐ |       |
| s.51(8)(a)(iii) |  | a short description of the matter which each account relates to? and  | ☐ | ☐ | ☐ |       |
| s.51(8)(b) |  | showing the date the statement was prepared? | ☐ | ☐ | ☐ |       |
| s.51(9) | 5.2 | The statement must be- |  |  |  |  |
| s.51(9)(a) |  | reviewed by a principal of the law practice; and | ☐ | ☐ | ☐ |       |
| s.51(9)(b) |  | was this review annotated in a way that evidences the completion of the review? | ☐ | ☐ | ☐ |       |

# [Division 4 – Transit money](#_heading=h.3tbugp1)

## Section 1 – Transit money

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes | No | N/A | Comments |
| s.253 | 1.1 | 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 255 of the *Legal Profession Act*.**Note 2:** 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 response is “NO” go to Division 5** |
|  | 1.2 | Does the law practice record and maintain brief particulars sufficient to identify the relevant transaction and any purpose for which the money was received?  | ☐ | ☐ | ☐ |       |

# [Division 5 – Trust money subject to specific power](#_heading=h.3tbugp1)

## Section 1 – Trust money subject to specific power

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes | No | N/A | Comments |
| s.254 | 1.1 | 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(s)) during the applicable period. | ☐ | ☐ | ☐ | **If response is “NO” go to Division 6** |
|  | 1.2 | Does the law practice keep:  | ☐ | ☐ | ☐ |       |
| s.56(2)(a) |  | (i) a record of all dealings with the money to which the practice or associate is a party? | ☐ | ☐ | ☐ |       |
| s.56(2)(b) |  | (ii) all supporting information in relation to the dealings? | ☐ | ☐ | ☐ |       |

# [Division 6 – Register of powers and estates in relation to trust money](#_heading=h.3tbugp1)

## Section 1 – Register of powers and estates

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes  | No | N/A | Comments |
| s.254 | 1.1 | Has the law practice or an associate of the law practice acted or 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 response is “NO” to both questions go to Division 7** |
| s.57(1) | 1.2 | Does the law practice keep a register of powers and estates? | ☐ | ☐ | ☐ |       |
| s.57(2) | 1.3 | is the law practice or associate required to act jointly with 1 or more persons who are not associates of the law practice? If so, section 57(1) does not apply. | ☐ | ☐ | ☐ |       |
| s.57(3) | 1.4 | The register must record- |  |  |  |  |
| s.57(3)(a) |  | the name and address of the donor and the date of each power? | ☐ | ☐ | ☐ |       |
| s.57(3)(b) |  | the name of the deceased in relation to each estate and the date of death of the deceased of which the law practice or associate is executor or administrator? | ☐ | ☐ | ☐ |       |

# [Division 7 – Investment of trust money](#_heading=h.3tbugp1)

## Section 1 – Investment of trust money

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes  | No | N/A | Comments |
| s.238 | 1 | Has the law practice invested Trust Money referred to in section 238(3) of the *Legal Profession Act 2007*?**Note 1:** Section 238(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.” | ☐ | ☐ | ☐ | **If response is “NO” go to Division 8** |

#

# [Division 8 – Register of investments](#_heading=h.3tbugp1)

## Section 1 – Register of investments

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes  | No  | N/A | Comments |
| s.55(1) | 1.1 | Does the law practice keep a register of the investment of investment money? **Note** Section 55 of the *Legal Profession Regulation 2017*, does not confer power to invest trust money or require particulars to be recorded in the register if the particulars are required by the regulation to be recorded elsewhere. | ☐ | ☐ | ☐ |       |
| s.55(2) | 1.2 | The register must record the following information for each investment of investment money- |  |  |  |  |
| s.55(2)(a) |  | the name in which the investment is held? | ☐ | ☐ | ☐ |       |
| s.55(2)(b) |  | the name of the person on whose behalf the investment is made? | ☐ | ☐ | ☐ |       |
| s.55(2)(c) |  | the person's address? | ☐ | ☐ | ☐ |       |
| s.55(2)(d) |  | particulars sufficient to identify the investment? | ☐ | ☐ | ☐ |       |
| s.55(2)(e) |  | the amount invested? | ☐ | ☐ | ☐ |       |
| s.55(2)(f) |  | the date the investment was made? | ☐ | ☐ | ☐ |       |
| s.55(2)(g) |  | particulars sufficient to identify the source of the investment:  | ☐ | ☐ | ☐ |       |
| s.55(2)(h) |  | details of any documents evidencing the investment? | ☐ | ☐ | ☐ |       |
| s.55(2)(i) |  | details of any interest received from the investment or credited directly to the investment? | ☐ | ☐ | ☐ |       |
| s.55(2)(j) |  | details of the repayment of the investment and any interest, on maturity or otherwise? | ☐ | ☐ | ☐ |       |

# [Division 9 – Matter files](#_heading=h.3tbugp1)

## Section 1 – Matter files

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes | No | N/A | Comments |
|  | 1.1 | Are the matter files selected a representative sample of open files and those matter files closed during the period under examination? | ☐ | ☐ | ☐ |       |
|  | 1.2 | Have source records been sighted to confirm the accuracy of records in trust account cash receipts and payments book and the trust account ledger? | ☐ | ☐ | ☐ |       |
|  | 1.3 | Was there is any evidence of trust money not being recorded into the trust records of the law practice? | ☐ | ☐ | ☐ |       |

#

# Division 10 – Office account

## Section 1 – Office account

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Clause(s)** | **Item** |  | Yes | No | N/A | Comments |
|   | 1.1 | Has the office account bank statements been reviewed for any unusual transactions? | ☐ | ☐ | ☐ |       |
|  | 1.2 | Was there any evidence of trust money being deposited into the office account of the law practice? | ☐ | ☐ | ☐ |       |
|  | 1.3 | Was there evidence of any delay in paying third party disbursements where the law practice had been put in funds? | ☐ | ☐ | ☐ |       |