

Law Practice Checklist for Trust Account Operations

1. Introduction

The purpose of this checklist is to assist law practices in the operation of their trust account.

This Checklist is for internal use only, law practices are not required to provide it to the Society or to their External Examiner.

Each area is divided into two sections:

Basic Controls which are required by the *Legal Profession Regulations 2018* and must be complied with; and

Internal Controls which are only recommendations to assist law practices in ensuring the security of their trust account.

Internal control in any organization is normally explained at three levels: Basic Controls, Disciplines over Basic Controls and Supervisory Controls. These are explained below:

<p>Basic Controls <i>“Basic Controls”</i> are the actions or procedures put in place to ensure transactions are recorded. These are generally seen as the write up of books of account, completion of registers, pre-numbering of key documents, reconciliations to independent records, etc. They are normally prepared by one person or a group of persons who work very closely with each other.</p>	<p>Example: Trust Bank Account Monthly reconciliations prepared by practice administrator.</p>
<p>Internal Controls Internal Controls include: 1. Disciplines over Basic Controls Having <i>“Disciplines over Basic Controls”</i> is the fundamental basis of the concept of internal control. A Discipline is where a person, independent of those who exercise or performed the Basic Control, reviews what has been undertaken to confirm that: (a) the control has been exercised; and (b) the control has been implemented completely and accurately. Without Disciplines, there is no effective system of internal control.</p>	<p>Review by Partner who initials to evidence their review and to verify completed with no unusual reconciling items, additions etc.</p>
<p>2. Supervisory Controls <i>“Supervisory Controls”</i> are higher level controls which are designed to bring the whole picture of the organisation’s activities into focus. Such controls revolve around management reports, review of financial summaries and such actions as an occasional review of cash books.</p>	<p>Monthly Partner meeting reviews the level of cash and that it is in line with trust balances & transactions.</p>

2. Receipts

The system of cash receipting should ensure that:

- a receipt is issued for all trust monies received,
- funds are banked intact as soon as practicable after receipt,
- correctly recorded and posted to the trust ledger, and
- receipts and the recording system are in accordance with the *Legal Profession Regulations 2018*.

2.1 Basic Controls

The Basic Controls that are listed below are key controls that must be in place.

Refer to *Reg 28*

Do the receipts when completed show the following:

	Yes	No
• Date of issue of receipt?	<input type="checkbox"/>	<input type="checkbox"/>
• Date of receipt of the money if different from date of issue?	<input type="checkbox"/>	<input type="checkbox"/>
• Are there procedures to record this date if it is different?	<input type="checkbox"/>	<input type="checkbox"/>
• Amount of money received?	<input type="checkbox"/>	<input type="checkbox"/>
• Form in which the money was received? (i.e. Cash, Cheque, Electronic Transfer etc)	<input type="checkbox"/>	<input type="checkbox"/>
• Name of person from whom received?	<input type="checkbox"/>	<input type="checkbox"/>
• Name of person on whose behalf money was received?	<input type="checkbox"/>	<input type="checkbox"/>
• Clear identification of ledger account to be credited?	<input type="checkbox"/>	<input type="checkbox"/>
• Description of matter?	<input type="checkbox"/>	<input type="checkbox"/>
• Purpose for which money was received?	<input type="checkbox"/>	<input type="checkbox"/>
• Name of law practice & "Trust Account" is on each receipt	<input type="checkbox"/>	<input type="checkbox"/>
• Printed name of person who issued the receipt	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No
• Were monies paid into the law practice's trust bank account in accordance with s242 of the <i>Act</i> , paid into the trust bank account before the end of the next banking day?	<input type="checkbox"/>	<input type="checkbox"/>

2.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
Duties are segregated, particularly regarding recording of amounts received.	<input type="checkbox"/>	<input type="checkbox"/>
Receipts are written up immediately for all amounts received.	<input type="checkbox"/>	<input type="checkbox"/>
Satisfactory mail opening procedures are in place – eg two people present, cheques crossed and/or stamped for 'deposit only', receipts are recorded immediately.	<input type="checkbox"/>	<input type="checkbox"/>
Satisfactory controls over monies received at branches or other locations.	<input type="checkbox"/>	<input type="checkbox"/>
All amounts received are deposited intact promptly.	<input type="checkbox"/>	<input type="checkbox"/>
Daily deposit totals are reconciled.	<input type="checkbox"/>	<input type="checkbox"/>
Bank reconciliations are prepared regularly (suggest daily or at least weekly) and independently checked.	<input type="checkbox"/>	<input type="checkbox"/>
Supervision by principals is effective and reviews are evidenced by the principal initialling of the documents.	<input type="checkbox"/>	<input type="checkbox"/>

3. Payments and Withdrawals

The system of payments and withdrawals should ensure that trust payments are:

- in accordance with client instructions,
- evidenced by supporting documentation consistent with the matter being dealt with,
- correctly recorded, and
- posted to the trust ledger and in accordance with the *Legal Profession Regulations 2018*.

3.1 Basic Controls

The Basic Controls listed below are key requirements of the *Regulations* that must be in place.

Refer to Reg 31(1)(2)(3)(4)

Are all cheques issued by the law practice:	Yes	No
• Made payable to a specified person or persons (i.e. not to bearer or cash)	<input type="checkbox"/>	<input type="checkbox"/>
• Crossed “Not Negotiable”?	<input type="checkbox"/>	<input type="checkbox"/>
• Issued in the name of the law practice?	<input type="checkbox"/>	<input type="checkbox"/>
• Have the words “Trust Account” on the cheque?	<input type="checkbox"/>	<input type="checkbox"/>
• Signed by a principal or person/s authorised to sign	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 31(7)

Does the cheque butt or cheque requisition include the following details:	Yes	No
• Date of cheque?	<input type="checkbox"/>	<input type="checkbox"/>
• Cheque number?	<input type="checkbox"/>	<input type="checkbox"/>
• Amount of cheque?	<input type="checkbox"/>	<input type="checkbox"/>
• Name of payee?	<input type="checkbox"/>	<input type="checkbox"/>
• If Name of payee is ADI, then name of ADI (or BSB no.) and person receiving benefit?	<input type="checkbox"/>	<input type="checkbox"/>
• Authority to pay to “order” of named payee?	<input type="checkbox"/>	<input type="checkbox"/>
• Name of person on whose behalf payment was made and matter reference?	<input type="checkbox"/>	<input type="checkbox"/>
• Details identifying the ledger account to be debited?	<input type="checkbox"/>	<input type="checkbox"/>
• Particulars sufficient to identify the purpose for which payment was made?	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 31(5)(6)(8)

	Yes	No
• Is a written record of the required particulars (by cheque butt, carbon copy or computer) kept?	<input type="checkbox"/>	<input type="checkbox"/>
• Are those records (including cheque requisitions) kept in order in which cheques were issued?	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 32

Have Electronic Funds Transfers been effected in the following way:		
Was the EFT effected by, under the direction of or with the authority of:	Yes	No
• An authorised principal or if not available person/s authorised in order as detailed in reg 32(3)(b)	<input type="checkbox"/>	<input type="checkbox"/>

Law Practice Checklist for Trust Account Operations

With regard to EFTs was a written record retained of the following particulars:	Yes	No
• Date and number of the transaction	<input type="checkbox"/>	<input type="checkbox"/>
• The amount transferred	<input type="checkbox"/>	<input type="checkbox"/>
• The name and no. of account to which amount transferred & BSB no.	<input type="checkbox"/>	<input type="checkbox"/>
• If name of person to whom payment made or if to ADI, then name of ADI (or BSB no.) and person receiving benefit?	<input type="checkbox"/>	<input type="checkbox"/>
• Name of person on whose behalf payment was made and matter reference?	<input type="checkbox"/>	<input type="checkbox"/>
• Details identifying the ledger account to be debited?	<input type="checkbox"/>	<input type="checkbox"/>
• Particulars sufficient to identify the purpose for which payment was made?	<input type="checkbox"/>	<input type="checkbox"/>
Have written records relating to payments of EFT (including transfer requisitions) been kept in the order in which the transfers were effected?	<input type="checkbox"/>	<input type="checkbox"/>

Refer to *Reg 54*

	Yes	No
• Are there procedures to ensure the law practice complies with <i>Reg 54(1)</i> ?	<input type="checkbox"/>	<input type="checkbox"/>
• Are accounts staff trained about such procedures?	<input type="checkbox"/>	<input type="checkbox"/>
Under <i>Reg 54(2)</i> no bank cheque is to be retained for more than two days.	<input type="checkbox"/>	<input type="checkbox"/>
• Does the law practice have procedures to ensure that this Regulation is adhered to?	<input type="checkbox"/>	<input type="checkbox"/>
• Are accounts staff aware of these procedures?	<input type="checkbox"/>	<input type="checkbox"/>
• Have any client ledger accounts been in debit for any reason during the year?	<input type="checkbox"/>	<input type="checkbox"/>
• If yes, please attach an explanation.	<input type="checkbox"/>	<input type="checkbox"/>

3.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
Segregation of duties, eg different people approve the payment, draw the cheque and reconcile the bank statement.	<input type="checkbox"/>	<input type="checkbox"/>
If not, is there a review by a principal or senior independent person?	<input type="checkbox"/>	<input type="checkbox"/>
Amounts are only paid when there are sufficient funds on hand.	<input type="checkbox"/>	<input type="checkbox"/>
Are there procedures to ensure this?	<input type="checkbox"/>	<input type="checkbox"/>
Payments are consistent with client's instructions?	<input type="checkbox"/>	<input type="checkbox"/>
Are there written instructions on file on each occasion?	<input type="checkbox"/>	<input type="checkbox"/>
Correct coding is used for posting to trust ledger.	<input type="checkbox"/>	<input type="checkbox"/>
Cheque requisition forms are used and properly authorised.	<input type="checkbox"/>	<input type="checkbox"/>
Authorisations for cheque signatories and EFT transactions are in place.	<input type="checkbox"/>	<input type="checkbox"/>
Only principals and persons authorised by principals (and notified to Society) are signatories.	<input type="checkbox"/>	<input type="checkbox"/>
Documentation is properly cancelled to prevent re-submission and is retained on file in evidence of payment.	<input type="checkbox"/>	<input type="checkbox"/>
Controls are in place to account for all pre-numbered cheques, particularly loose leaf cheques.	<input type="checkbox"/>	<input type="checkbox"/>
Direct payments are controlled and are recorded promptly in the register.	<input type="checkbox"/>	<input type="checkbox"/>

4. Journals

The journals should reflect that all transactions not involving cash are:

- proper transactions,
- properly recorded and
- in accordance with the *Legal Profession Regulations 2018*.

4.1 Basic Controls

The Basic Controls listed below are key requirements of the *Regulations* that must be in place.

Refer to Reg 37

Is each journal transfer made appropriately as follows:

	Yes	No
• Is the law practice entitled to withdraw money and pay to the other trust ledger?		
• Is each transfer between trust ledgers made under the same direction as those authorised to sign trust cheques and authorise payments by EFT?	<input type="checkbox"/>	<input type="checkbox"/>
• Has the transaction been authorised in writing?	<input type="checkbox"/>	<input type="checkbox"/>
• Has a transfer journal been maintained?	<input type="checkbox"/>	<input type="checkbox"/>
• Are the Journal pages or entries consecutively numbered?	<input type="checkbox"/>	<input type="checkbox"/>
Have the following details been recorded in the transfer journal in relation to funds transferred between trust ledgers:	<input type="checkbox"/>	<input type="checkbox"/>
• Date of transfer	<input type="checkbox"/>	<input type="checkbox"/>
• Trust ledger from which money was transferred	<input type="checkbox"/>	<input type="checkbox"/>
• Trust ledger to which money was transferred	<input type="checkbox"/>	<input type="checkbox"/>
• Amount transferred	<input type="checkbox"/>	<input type="checkbox"/>
• Purpose transfer made, matter reference and description	<input type="checkbox"/>	<input type="checkbox"/>

4.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
Journal vouchers are approved by a principal or senior independent person before posting.	<input type="checkbox"/>	<input type="checkbox"/>
The list of Journals for the week/month are printed and reviewed by a principal or senior person not responsible for recording the transactions.	<input type="checkbox"/>	<input type="checkbox"/>

5. Cash Books

The cash books should reflect that all transactions are:

- proper transactions,
- properly recorded and
- in accordance with the *Legal Profession Regulations 2018*.

5.1 Basic Controls

The Basic Controls listed below are key requirements of the *Regulations* that must be in place.

Refer to Reg 34

Does the Cash Book record the following in respect of receipts?

	Yes	No
• Date of the issue of the receipt	<input type="checkbox"/>	<input type="checkbox"/>
• Date of receipt of money if different	<input type="checkbox"/>	<input type="checkbox"/>
• amount received	<input type="checkbox"/>	<input type="checkbox"/>
• form in which the money was received	<input type="checkbox"/>	<input type="checkbox"/>
• name of the person from whom the money was received	<input type="checkbox"/>	<input type="checkbox"/>
• name of the client on whose behalf the money was received & matter reference	<input type="checkbox"/>	<input type="checkbox"/>

Law Practice Checklist for Trust Account Operations

• purpose for which the money was received	<input type="checkbox"/>	<input type="checkbox"/>
• ledger account to be credited	<input type="checkbox"/>	<input type="checkbox"/>
• date and amount of each deposit to the trust bank account	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 35(1)

Does the Cash Book record the following in respect of payments by cheque?	Yes	No
• Date and number of the cheque	<input type="checkbox"/>	<input type="checkbox"/>
• The amount	<input type="checkbox"/>	<input type="checkbox"/>
• The named payee	<input type="checkbox"/>	<input type="checkbox"/>
• If name of payee is ADI, then name of ADI (or BSB no.) and person receiving benefit?	<input type="checkbox"/>	<input type="checkbox"/>
• Name of person on whose behalf payment was made and matter reference?	<input type="checkbox"/>	<input type="checkbox"/>
• Details identifying the ledger account to be debited?	<input type="checkbox"/>	<input type="checkbox"/>
• Particulars sufficient to identify the purpose for which payment was made?	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 35(2)

Does the Cash Book record the following in respect of payments by EFT?	Yes	No
• Date and number of the transaction	<input type="checkbox"/>	<input type="checkbox"/>
• The amount transferred	<input type="checkbox"/>	<input type="checkbox"/>
• The name and no. of account to which amount transferred & BSB no.	<input type="checkbox"/>	<input type="checkbox"/>
• If name of person to whom payment made or if to ADI, then name of ADI (or BSB no.) and person receiving benefit?	<input type="checkbox"/>	<input type="checkbox"/>
• Name of person on whose behalf payment was made and matter reference?	<input type="checkbox"/>	<input type="checkbox"/>
• Details identifying the ledger account to be debited?	<input type="checkbox"/>	<input type="checkbox"/>
• Particulars sufficient to identify the purpose for which payment was made?	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 34(2)(3)(4), 35(3),(4)& 36(8)(9)(10)

Do the cash book and the trust ledger accounts reflect prompt and accurate recording as follows?	Yes	No
• Are the particulars of receipts and payments recorded in the cash book recorded in the order in which receipts are written out or payments are made?	<input type="checkbox"/>	<input type="checkbox"/>
• Are the particulars of receipts and payments recorded in the trust ledger account in the order in which the transactions occur and does the ledger show a balance after each transaction?	<input type="checkbox"/>	<input type="checkbox"/>
• Are particulars in respect of receipt and payment transactions recorded within 5 working days?	<input type="checkbox"/>	<input type="checkbox"/>

5.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
The Cash Receipts Book and Cash Payments Book are reviewed as part of the regular bank reconciliation process to ensure that the books and the reconciliation are in agreement and also that there are no irregular payment/receipt entries.	<input type="checkbox"/>	<input type="checkbox"/>
Are there procedures for receipt of money after hours or at visiting or branch offices?	<input type="checkbox"/>	<input type="checkbox"/>

6. Trust Ledger

The Trust Ledger should reflect that;

- the ledger correctly records all client balances held from time to time;
- no account of any client held within the trust has been overdrawn; and
- transactions are properly recorded and referenced.

6.1 Basic Controls

The Basic Controls listed below are key requirements of the *Regulations* that must be in place.

Refer to Reg 36

Does each trust ledger account record prompt and accurate recording as follows:	Yes	No
<ul style="list-style-type: none"> • Is there a trust ledger account in relation to each client of the practice in each matter for which trust money has been received? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Does the ledger account record the following details? 		
(a) Name of the person on whose behalf the trust money was paid into trust	<input type="checkbox"/>	<input type="checkbox"/>
(b) Address of the person	<input type="checkbox"/>	<input type="checkbox"/>
(c) Clear identification of the matter	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Are details of any changes in the title of a trust ledger account recorded? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Are the receipts, payments and journal transactions recorded in the order in which the transactions occur? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Does each trust ledger show a balance after each transaction? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Are particulars in respect of each transaction recorded within 5 working days 	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 36(4)

Does the ledger record the following in respect of receipts?	Yes	No
<ul style="list-style-type: none"> • Date of the issue of the receipt 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Date of receipt of money if different 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Receipt no 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Amount received 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Name of the person from whom the money was received 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Purpose for which the money was received 	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 36(5)

Does the ledger record the following in respect of payments by cheque?	Yes	No
<ul style="list-style-type: none"> • Date and number of the cheque 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • The amount 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • The named payee 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • If name of payee is ADI, then name of ADI (or BSB no.) and person receiving benefit? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Details identifying the ledger account to be debited? 	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 36(6)

Does the ledger record the following in respect of payments by EFT?	Yes	No
<ul style="list-style-type: none"> • Date and number of the transaction 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • The amount transferred 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Name and no. of account to which amount transferred & BSB no. 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • If name of person to whom payment made or if to ADI, then name of ADI (or BSB no.) and person receiving benefit? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Particulars sufficient to identify purpose for which payment was made? 	<input type="checkbox"/>	<input type="checkbox"/>

Refer to Reg 36(7)

Does the Cash Book record the following in respect of transfers by journal?	Yes	No
• Date of the transfer	<input type="checkbox"/>	<input type="checkbox"/>
• The amount transferred	<input type="checkbox"/>	<input type="checkbox"/>
• The transfer journal reference no.	<input type="checkbox"/>	<input type="checkbox"/>
• The name of the other trust ledger account from which or to which the money was transferred.	<input type="checkbox"/>	<input type="checkbox"/>
• Particulars sufficient to identify the purpose for which payment was made?	<input type="checkbox"/>	<input type="checkbox"/>

6.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
The list of balances is reviewed monthly by a principal or senior independent person not involved in the bank reconciliation and the total agreed to the bank reconciliation.	<input type="checkbox"/>	<input type="checkbox"/>
Review regularly all balances where there has been no movement for more than twelve months as to why the funds should be retained and not returned to the client or dispersed in accordance with instructions.	<input type="checkbox"/>	<input type="checkbox"/>
The Trust Ledger is reviewed on a regular basis by a principal or senior independent person to ensure that no client balance has been overdrawn.	<input type="checkbox"/>	<input type="checkbox"/>

7. Reconciliations of Cash Books with Bank and Trust Ledgers

The bank reconciliation and banking processes are key areas in trust account operations. It is also an area where Basic Controls and Internal Controls need to be strong and effective. The reconciliations should reflect that:

- the bank account is reconciled to the trust ledger and transaction records at the end of each month, and
- the bank account has not contained an insufficient balance during the period.

7.1 Basic Controls

The Basic Controls listed below are key requirements of the *Regulations* that must be in place.

Refer to Reg 38

Have the following processes been conducted in the monthly reconciliation?	Yes	No
• Is a statement prepared showing the reconciling of the balance of the Cash Book to the bank statements?	<input type="checkbox"/>	<input type="checkbox"/>
• Is a statement prepared showing the reconciling of the balance of the trust ledger accounts with the balance of the law practice's trust account cash books?	<input type="checkbox"/>	<input type="checkbox"/>
• Were the above statements prepared within 15 days of the end of the month?	<input type="checkbox"/>	<input type="checkbox"/>
• Did the above statements indicate the date of preparation?	<input type="checkbox"/>	<input type="checkbox"/>
• Were the above statements retained by the law practice?	<input type="checkbox"/>	<input type="checkbox"/>
Does the list of trust balances include the following:		
• Month to which they relate	<input type="checkbox"/>	<input type="checkbox"/>
• Client name	<input type="checkbox"/>	<input type="checkbox"/>
• Reference number or identification	<input type="checkbox"/>	<input type="checkbox"/>
• Balance of each account at month's end	<input type="checkbox"/>	<input type="checkbox"/>
• Description of the matter to which each relates	<input type="checkbox"/>	<input type="checkbox"/>

7.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
A regular review (consider annually) of the list of cheque signatories to ensure that only authorised persons may sign cheques and the authorisations have been advised to the Law Society as well as the bank.	<input type="checkbox"/>	<input type="checkbox"/>
There are procedures to ensure that the bank and the Society is advised if a principal or authorised person who is a bank signatory leaves the law practice.	<input type="checkbox"/>	<input type="checkbox"/>
There are procedures to ensure that only principals of the law practice may open or close any bank account – normally using two signatories.	<input type="checkbox"/>	<input type="checkbox"/>
Bank statements for all accounts are received regularly and reconciliations are prepared and/or are reviewed by a principal or senior person not involved in the reconciliation process.	<input type="checkbox"/>	<input type="checkbox"/>
Bank Statements and reconciliations for ALL bank accounts and investments controlled by the law practice are subject to reconciliation regularly – i.e. trust bank accounts and any client funds invested.	<input type="checkbox"/>	<input type="checkbox"/>

8 Statements of Account

8.1 Basic Controls

The Basic Controls listed below are the key requirements of the *Regulations* that must be in place.

Refer to Reg 48

Have the following processes been conducted with regard to Statements of Account	Yes	No
<ul style="list-style-type: none"> Has a trust account statement been furnished to each person for whom or on whose behalf trust money, including investment money, is held or controlled by the law practice? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Has a separate trust account statement been furnished for each trust ledger account? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Has a separate trust account statement been issued where the trust money was subject to a power given to the law practice or an associate of the law practice? 	<input type="checkbox"/>	<input type="checkbox"/>
Did the trust account statements contain the following particulars:		
<ul style="list-style-type: none"> Details required to be kept regarding trust money 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> The remaining balance (if any) of funds 	<input type="checkbox"/>	<input type="checkbox"/>
Was a statement furnished as soon as practicable:		
<ul style="list-style-type: none"> After completion of a matter? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> After a reasonable request was made for a statement? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> After 30 June 2010? 	<input type="checkbox"/>	<input type="checkbox"/>
Was a copy of each trust account statement retained by the law practice?	<input type="checkbox"/>	<input type="checkbox"/>

8.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
<ul style="list-style-type: none"> Have ledger accounts in conjunction with client files been reviewed regularly by a principal or senior independent person to ensure trust account statements have been issued as required by the Regulations. 	<input type="checkbox"/>	<input type="checkbox"/>

9 Intermixing of Money

9.1 Basic Controls

Section 251 of the *Act* contains an express prohibition of mixing trust money with other money. Basic controls are as follows:

	Yes	No
<ul style="list-style-type: none"> Are there any funds held in the trust account which are personal in nature, e.g. superannuation of principals or staff of law practice, taxation instalments, fundraising amounts? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Are there any trust ledger accounts in the name of the law practice or a practitioner other than where they are a client of the law practice? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Are there any trust ledger accounts held where the final legal costs have not been taken and it is more than one month after the finalisation of the matter? 	<input type="checkbox"/>	<input type="checkbox"/>

9.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
<ul style="list-style-type: none"> Have ledger accounts been reviewed regularly by a principal or senior independent person to ensure there are no funds held in the trust account which are personal or which should have been taken in legal costs. 	<input type="checkbox"/>	<input type="checkbox"/>

10 Monies Held for Investment

Section 232 (3) of the *Act* explains that money entrusted to be held by a practice for investment purposes is not trust money for the purposes of the *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.

10.1 Basic Controls

The Basic Controls listed below are key requirements of the *Regulations* that must be in place:

Refer to *Reg 50*

Have the following been applied when money has been invested on behalf of clients in accordance with <i>s232(3)</i> of the <i>Act</i> :	Yes	No
<ul style="list-style-type: none"> • Has a Register of Investments of trust money been maintained? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Does the register record the following information in relation to each investment: 	<input type="checkbox"/>	<input type="checkbox"/>
(a) the name in which the investment is held?	<input type="checkbox"/>	<input type="checkbox"/>
(b) the name of the person on whose behalf the investment is made?	<input type="checkbox"/>	<input type="checkbox"/>
(c) the person's address?	<input type="checkbox"/>	<input type="checkbox"/>
(d) particulars sufficient to identify the investment?	<input type="checkbox"/>	<input type="checkbox"/>
(e) the amount invested?	<input type="checkbox"/>	<input type="checkbox"/>
(f) the date the investment was made?	<input type="checkbox"/>	<input type="checkbox"/>
(g) particulars sufficient to identify the source of the investment, including, for example -	<input type="checkbox"/>	<input type="checkbox"/>
i. A reference to the relevant trust ledger; and	<input type="checkbox"/>	<input type="checkbox"/>
ii. A reference to the written authority to make the investment; and	<input type="checkbox"/>	<input type="checkbox"/>
iii. The number of the cheque for the amount to be invested?	<input type="checkbox"/>	<input type="checkbox"/>
(h) details of any documents evidencing the investment;	<input type="checkbox"/>	<input type="checkbox"/>
(i) details of any interest received from the investment or credited directly to the investment?	<input type="checkbox"/>	<input type="checkbox"/>
(j) details of the repayment of the investment and any interest, on maturity or otherwise?	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Have statements been forwarded to clients in accordance with <i>regulation 48</i> as soon as practicable after completion of the matter and as soon as practicable after 30 June in each year (subject to exemptions listed under <i>reg 48(7)</i>? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Has a copy of each such statement been kept? 	<input type="checkbox"/>	<input type="checkbox"/>

10.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

	Yes	No
Has the Investment Register been reviewed regularly by a principal or senior independent person to ensure that:		
<ul style="list-style-type: none"> • the Register is properly maintained with appropriate details as above; 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • there are no funds held on investment for which there are no client instructions; 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • there are no funds held on investment which should have been disbursed. 	<input type="checkbox"/>	<input type="checkbox"/>

11 Trust Account Signatories

11.1 Basic Controls

The basic requirements for signing of cheques or authorising electronic funds transfers are as follows:

Regulation 31 requires that a cheque must be signed by; and, *Regulation 32* requires that a payment by electronic funds transfer must be effected by, under the direction of or with the authority of -

- a) An authorised principal of the law practice; or
- b) If a principal referred to in paragraph (a) is not available –
 - i. an authorised legal practitioner associate; or
 - ii. an authorised Australian legal practitioner who holds an unrestricted practising certificate authorising the receipt of trust money; or
 - iii. two or more authorised associates jointly.

(Definitions of the above persons can be found in Part 1.2 Interpretation of the *Act* but mean

- i. employed solicitor of the law practice
- ii. principal of another law practice
- iii. two non-solicitor associates of the law practice jointly.)

Refer to Reg 40(3)

Has the Law Society been given written notice of the following:	Yes	No
<ul style="list-style-type: none"> • the authorisation or termination of the authority of each associate of the practice or Australian legal practitioner to sign cheques drawn on the trust account or to electronically transfer funds 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • the notifications each include the address (home) of each associate of the practice (NB addresses of all practitioners are already held by the Society) 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • the associates and practitioners who are authorised as at 1 July (To assist law practices in this the Society's record of signatories is forwarded to each law practice during July and must be checked, signed and returned to the Society.) 	<input type="checkbox"/>	<input type="checkbox"/>

11.2 Internal Controls

Outlined below are recommended internal controls your law practice should consider implementing.

The trust account signatories/authorisations:	Yes	No
<ul style="list-style-type: none"> • have been changed and notified when a signatory leaves the law practice. 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • recorded at the bank are the same as those advised to the Society. 	<input type="checkbox"/>	<input type="checkbox"/>

12 Trust money subject to specific powers (s248 of the Act)

Regulation 51 requires that if a law practice or an associate of the practice is given a power to deal with trust money for or on behalf of another person, the practice must maintain records.

12.1 Basic Controls

If the practice or an associate of the practice is given a power to deal with trust money for or on behalf of another person, does the practice keep:	Yes	No
<ul style="list-style-type: none"> • a record of all dealings with the money to which the practice or associate is a party? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • all supporting information in relation to dealings in a manner that enables the dealings to be clearly understood? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • the record, supporting information and power as part of the practice's trust records? 	<input type="checkbox"/>	<input type="checkbox"/>

13 Register of powers and estates

Regulation 52 requires that a law practice must maintain a register of powers and estates in respect of which the law practice or an associate of the practice is acting or entitled to act, alone or jointly with the law practice or one or more associates of the practice, in relation to trust money.

13.1 Basic Controls

	Yes	No
<ul style="list-style-type: none"> • Does the law practice maintain a register of powers and estates? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Does the register contain the name and address of the donor and date of each power? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Does the register contain the name and date of death of the deceased in respect of each estate of which the law practice or associate is executor or administrator? 	<input type="checkbox"/>	<input type="checkbox"/>