



**The Institute of
Chartered Accountants
in Australia**



**AUSTRALIAN SOCIETY OF CERTIFIED PRACTISING ACCOUNTANTS
AND
THE INSTITUTE OF CHARTERED ACCOUNTANTS IN AUSTRALIA**

APS 10 Trust Accounts

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PART 1

Introduction

- 1.1. The Boards of CPA Australia and The Institute of Chartered Accountants in Australia (the Institute) issue the following Statement on "Trust Accounts".
- 1.2. For the purposes of this Statement and subject to paragraphs 34.2 and 34.3, the annual reporting period ends on 31st March in any year. This Statement is operative from the 1st April 2004, but may be applied to earlier reporting periods.
- 1.3. This Statement supersedes Professional Statement APS 10 "Client Money and the Maintenance and Audit of a Member's Trust Account" issued June 1997 and amended in December 1999.
- 1.4. This Statement is confined to the professional responsibilities of a *Member* as distinct from any responsibilities, which may be imposed by law.
2. This Statement applies to all *Members* of CPA Australia/the Institute who hold or receive *Trust Money*. This Statement also applies to all *Members'* practice entities, as defined at paragraph 3(i) of the Code of Professional Conduct, and to any nominee or nominee company thereof.
3. For *Trust Account(s)* maintained by a *Member* and required by law to be audited or subject to regular inspection by the relevant statutory authority pursuant to:-
 - (a) Trust Accounts Act (Qld) 1973;
 - (b) Corporations Act 2001, in respect of investment advisor, liquidator, administrator, receiver, receiver and manager, scheme manager or such other appointed controller of property; or
 - (c) Bankruptcy Act 1966, in respect of registered trustee in bankruptcy or such other appointed controller of property;a separate audit is not required for CPA Australia or the Institute. The *Auditor* is, however, bound to report in accordance with paragraph 41 of this Statement.
4. This Statement requires a *Member* who holds or receives *Trust Money*:
 - (a) to establish and continue to maintain *Trust Bank Account(s)* and *Trust Account(s)* and to keep *Trust Account Records* secure;
 - (b) to ensure there are adequate internal control safeguards and procedures in place; and
 - (c) to cause the *Trust Account(s)* and *Trust Account Records* to be audited annually in accordance with this Statement and Australian Auditing Standards, unless exemptions apply pursuant to paragraph 3 of this Statement.

Disciplinary Proceedings

5. The Standards set out in this Statement are mandatory. Any breach may be dealt with in accordance with the disciplinary procedures of CPA Australia/the Institute.

Definitions

6. For the purposes of this Statement:

"*Auditor*" means a *Member* of CPA Australia/the Institute, who holds a Public Practice Certificate/Certificate of Public Practice, who has adequate training, experience and competence in auditing and who is not disqualified under the provisions of paragraph 39 of this Statement.

"*Cheque*" means a bill of exchange drawn on a *Financial Institution* by the holder of a current account.

"*Client*" means an individual, firm or entity in respect of which *Trust Money* is held or received by a *Member*.

"*Deficiency*" means a lack of *Trust Money* in a *Member's Trust Bank Account*, generally as disclosed by the *Trust Account Records*, or lack of funds standing to the credit of a *Client's* account in the *Member's Trust Account*, but does not include any deficiency which an *Auditor* is satisfied was caused solely by an error of a *Financial Institution*.

"*Electronic Funds Transfer*" means a transaction initiated via a communications network which allows the electronic transfer of value from an account at a *Financial Institution*.

"*Financial Institution*" means a bank, building society, credit union or such other financial entity that provides banking facilities to the public.

"*Member*" means a member of CPA Australia/the Institute.

"*Money*" means cash, foreign currency, any negotiable instrument and any security, the title to which is transferable by delivery, including delivery by *Electronic Funds Transfer* but does not include *Trade Dollars*.

"*Personnel*" means employees, officers, directors, contractors or agents.

"*Trade Dollar(s)*" means an accounting unit with an assigned value used to record the value of goods and services traded between participants of a trade exchange eg. bartercard dollars, or credit units.

"*Trust Account*" means accounts for the receipt, disbursement, disposal or other dealing of *Trust Money*. The mere capacity to operate a *Client's* account with a *Financial Institution*, either alone or jointly, does not necessarily constitute the operation of a *Trust Account*.

"*Trust Account Records*" means documentation evidencing the receipt, disbursement, disposal or other dealing with *Trust Money*.

Examples of *Trust Account Records* are described at paragraph 4.2 of GN3 – "Operation of *Trust Accounts*".

"*Trust Bank Account*" means any account with a *Financial Institution* utilised by the *Member* or *Personnel* for the receipt, disbursement, disposal or other dealing of *Trust Money*.

"*Trust Money*" means;

- (a) any *Money* held or received on behalf of any person by the *Member* or any of the *Member's Personnel*, in the course of or in connection with offering or performing public accounting services, including financial planning, investment advisory and taxation services; and
- (b) where the *Member* or the *Member's Personnel* have no present entitlement to such *Money*.

Examples of *Trust Money* are described at paragraph 2.2 of GN3- "Operation of *Trust Accounts*".

Examples of what *Trust Money* does not include, are discussed at paragraph 2.3 of GN3 – "Operation of *Trust Accounts*".

"*Working Day*" means a day that is not a Saturday, Sunday, public holiday or bank holiday.

Interpretation

- 7.1. Any references to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instruments issued under it.
- 7.2. Words appearing in *italics* are defined in this Statement.
- 7.3. Statements appearing in **bold** type are mandatory.
- 7.4. For assistance and further guidance in the application of this Standard, *members* are referred to the Guidance Notes in the Members' Handbook at GN3 – "Operation of *Trust Accounts*".

PART 2: THE STANDARDS

Receipt of *Money*

8. ***Money* held or received by a *Member* payable to a *Client*, or at the direction of a *Client* to a third party (for example, tax refund proceeds received as tax agent), in respect of which the *Member* has no authority to transfer, convert or assign, must be dispatched or refunded immediately to the *Client* or third party as appropriate, or otherwise dealt with in accordance with the *Client's* instructions.**
- 9.1. **If a *Member* receives *Money* and the payee is no longer a *Client*, or the intended recipient is unknown to the *Member*, the *Money* must be forwarded to the payee. If the *Member* is in doubt as to the identity of the payee or intended recipient, or is unable, after reasonable enquiry, to contact the payee, or intended recipient, the *Member* shall return the *Money* to the drawer or sender as appropriate.**
- 9.2. *Members* are directed to relevant State legislation on unclaimed *Money* for their obligations when unable to discharge *Money* to the *Client*, payee, drawer or sender as appropriate.
10. A *Cheque* payable to a *Client* does not constitute *Trust Money* until it is negotiated. A *Member* shall be deemed to have negotiated a *Cheque* when the *Member* has transferred, converted or assigned the *Cheque* to himself or another by delivery or endorsement for consideration or otherwise. Where such a transfer, conversion or assignment is completed without the authority of the owner of the *Cheque*, such actions may amount to a criminal act.
11. **Where a *Member* proposes to act on a written authority to transfer, convert, assign *Money* on behalf of a *Client*, the proceeds of such transfer, conversion, assignment must be deposited to the credit of the *Member's Trust Bank Account* as soon as it is reasonably practicable after receipt.**
- 12.1. **Where *Trust Money* has been held or received by a *Member*, the *Member* shall establish and maintain a *Trust Account* and cause the *Trust Account* to be audited in accordance with this Statement and any relevant legislation.**
- 12.2. *Members* are referred to paragraph 5 of GN3 – “Operation of *Trust Accounts*” for assistance in documenting receipt of *Money* from *Clients*.

Establishment of *Trust Bank Account(s)*

- 13.1. **A *Member* who receives *Trust Money* shall establish and maintain a *Trust Bank Account*. A separate *Trust Bank Account* shall be established and maintained for a *Client* if so directed by the *Client*. The name of each *Trust Bank Account* must include the words “*Trust Account*”.**
- 13.2. **Whenever a *Member* opens a *Trust Bank Account*, appropriate notice of the nature of the account shall be given in clear terms to the *Financial Institution*. Such notice shall state that no right of set off is permitted in relation to the *Trust Bank Account*.**
- 14.1. ***Trust Money* held or received by a *Member* shall be deposited to the credit of a *Trust Bank Account*, within two *Working Days* of receipt (“the prescribed period”).**
- 14.2. ***Trust Money* held or received by a *Member* in a form which is not capable of being deposited with a *Financial Institution* (for example promissory notes), shall be safeguarded against unauthorised use and recorded in a register.**
- 15.1. *Trade Dollars* held or received on behalf of a *Client*, although not *Trust Money*, should also be safeguarded against unauthorised use and recorded in a register.

- 15.2. *Members* are referred to paragraphs 3 and 5.3 of GN3 – “Operation of *Trust Accounts*” for more information on *Trade Dollars*.

Operation of *Trust Bank Account(s)*

- 16.1. Except as provided in paragraphs 17, 20 and 28 of this Statement, *Trust Bank Account* transactions can take place only with authority of the *Client*.
- 16.2. The *Member* is required to take reasonable steps to ensure that such authority permits CPA Australia/the Institute access to *Trust Accounts*, *Trust Bank Accounts* and *Trust Account Records* for the purposes of *Trust Account* inspection, quality review program or the disciplinary proceedings of CPA Australia/the Institute.
- 16.3. *Members* are referred to Appendix 1 of GN3 – “Operation of *Trust Accounts*” for a sample *Trust Account* authority letter.
17. Subject to paragraph 19.1, a *Member* shall not pay into a *Trust Bank Account* any *Money* other than *Trust Money* and, in any event, not without prior authority of the legal owner of the *Money*, or otherwise by operation of law.
18. Subject to paragraph 19.1, various *Financial Institution*, statutory and other government charges on the *Trust Bank Account* shall be debited against the *Member’s* General Bank Account and not the *Trust Bank Account*.
- 19.1. A *Member’s* own funds may be deposited to the *Trust Bank Account*.
- (a) to meet any charges made to the *Trust Bank Account* where the *Financial Institution* has debited such charges to the *Trust Bank Account*, in error, instead of the *Member’s* General Bank Account; or
- (b) to meet a *Financial Institution’s* prescribed minimum requirements for an ongoing account balance.
- 19.2. *Members* are referred to paragraph 6 of the GN3 – “Operation of *Trust Accounts*” for more information on the “Operation of *Trust Bank Account(s)*”.

Disbursement of *Trust Money*

20. *Trust Money* can be withdrawn from the *Trust Bank Account* only on authority from the *Client*, or to make a payment to the *Client*, or in making a payment authorised otherwise by operation of law. Unless otherwise directed, such withdrawals shall be made within two Working Days (“the prescribed period”).
- 21.1. A *Cheque* withdrawing *Trust Money* from a *Trust Bank Account* shall be signed by a *Member* or any two (2) persons jointly authorised in accordance with paragraph 22.
- 21.2. *Electronic Funds Transfers* from a *Trust Bank Account* shall be effected by, and adequately documented by, a *Member* or any two (2) persons jointly authorised in accordance with paragraph 22.

The Trust Accounts Act 1973 (Qld) requires certain conditions to be satisfied before an *Electronic Funds Transfer* from a *Trust Bank Account* can take place.

Members could be held personally liable for any fraudulent withdrawal of *Client’s* *Trust Money* by *Electronic Funds Transfer*.

- 21.3. *Members* are referred to paragraph 7 of GN3 – “Operation of *Trust Accounts*” for more information on payments by *Cheque* and *Electronic Funds Transfer*.

- 22.1. **Where:**
- (a) the *Member* is a sole practitioner; or
 - (b) a *Member* is unavailable to sign a *Cheque*; or
 - (c) a *Member* is unavailable to effect the *Electronic Funds Transfer* with due expedition,
- a *Member* may delegate his or her authority to sign *Trust Bank Account Cheques* or to effect an *Electronic Funds Transfer* from a *Trust Bank Account*.
- 22.2. The delegation of authority must be in writing and signed by the *Member*.
- 22.3. The delegation of authority is to any two (2) of the following persons:
- (i) other *Members*; or
 - (ii) solicitors holding a current practising certificate; or
 - (iii) *Personnel* of the *Member's* practice; or
 - (iv) *Financial Institution* managers; or
 - (v) affiliates of the *Member's* practice, or *Members* of a CPA Australia multi disciplinary practice.
- 22.4. Where a delegation of authority is made, the *Member* must ensure there are adequate internal control safeguards and procedures in place.
23. Where a withdrawal is to be made from a *Trust Bank Account* by *Cheque*, the *Trust Bank Account Cheque* shall be marked "not negotiable".
24. Fees and disbursements due to the *Member* by the *Client* can be withdrawn from the *Trust Bank Account* only where the *Client* has agreed in writing to such withdrawal, after being notified in writing of the amount of such fees and disbursements.
25. Disbursements from the *Trust Bank Account* shall not exceed the balance standing to the credit of the particular *Client*.

Trust Account Records

26. *Trust Money* shall not be held in a *Trust Bank Account* for any period longer than is reasonably necessary to enable the purpose for which the *Trust Money* was held or received to be discharged.
- 27.1 Where it seems likely that the *Trust Money* will remain to the credit of a *Client's* account for a significant period of time, the *Member* may, with authority of the *Client*, place such *Money* in an interest bearing account.
- 27.2 Interest bearing accounts maintained on behalf of *Clients* shall be appropriately recorded and subject to audit.
28. Except as may be required by law, all interest earned on *Trust Money* shall be credited to the relevant *Client's* account and the *Member* shall observe any associated income tax compliance requirements.
- 29.1. A *Member* shall fully and immediately disclose in writing to the *Client* any benefit accruing to the *Member* or the *Client*, eg, commission or other inducements, as a result of receiving, depositing or investing *Trust Money*.

- 29.2. *Members* are referred to the Code of Professional Conduct, section D2, in respect of such disclosure.
30. **A *Member* shall forthwith notify the *Auditor* upon becoming aware of any deficiency of *Client Money* occurring in the *Trust Account* and any *deficiency* in the *Trust Bank Account*.**
31. **A *Member* shall provide to each *Client* a Statement of Transactions, together with the opening and closing balances, on the *Client's Trust Account* at least annually:**
- (a) **within one month of the close of financial year ended 31 March of the *Trust Account*; or**
 - (b) **upon completion of the matter requiring the maintenance of the *Trust Account*; and/or**
 - (c) **upon written request from the *Client*.**
32. **A *Member* shall maintain such *Trust Account Records* of each *Trust Account* that enable:**
- (a) **the *Trust Account* to be conveniently and properly audited and to disclose at all times the true position in relation to *Trust Money* recorded therein; and**
 - (b) **the *Member*, at any time, to establish clearly the *Member's* dealings with the *Trust Account* in general and the *Trust Money* of each individual *Client* in particular.**
- 33.1 **All *Trust Account Records* shall be retained for a period of five (5) years or such longer period as prescribed by legislation.**
- 33.2 *Members* are referred to paragraph 8 "*Trust Account Record Requirements*" of GN3 – "*Operation of Trust Accounts*".

Audit of *Trust Account(s)*

- 34.1. **A *Member* shall cause the *Trust Account* and *Trust Account Records* to be audited annually for each period ending 31 March, within ninety (90) days of that date or such other date as determined by legislation or this Statement.**
- Refer to Appendix 2 for *Trust Account* Audit Engagement letter.
- 34.2. **A *Member* shall cause the *Trust Account* and *Trust Account Records* to be audited within ninety (90) days of ceasing to operate a *Trust Bank Account*.**
- 34.3 **Within 90 days after ceasing to carry on business in public practice, a sole practitioner shall furnish CPA Australia/the Institute with an audit report on the *Trust Account* prepared in accordance with this Statement and recording *Trust Money* still held on behalf of *Clients*.**
35. **A copy of any qualified *Auditor's* report shall be forwarded immediately by the *Auditor* to the Divisional Director/Regional Manager (or equivalent).**
36. In addition to inspections as part of Quality Control Reviews, CPA Australia/the Institute may, at any time, without providing reasons, undertake an inspection or audit of any *Member's Trust Bank Account*, *Trust Account* and *Trust Account Records*, including audit papers of an *Auditor*, as it deems appropriate and employ such person/s as are necessary to carry out such inspections or audit, at such cost to the *Member* as may be determined by Disciplinary Committees of CPA Australia/the Institute.

37. CPA Australia/the Institute may, in its absolute discretion, at any time and upon such conditions as it deems appropriate, exempt the *Member* from or vary the conditions of exemption relating to compliance with these Standards.
38. **Subject to Paragraph 36, the cost of the audit of a *Member's Trust Bank Account* shall be borne by the *Member* operating the *Trust Account* and be payable from the *Member's General Bank Account* and not from the *Trust Bank Account* nor from the interest earned on *Trust Money*.**
39. **An *Auditor* is disqualified from accepting or continuing with an audit of another *Member's Trust Bank Account* where:**
- (a) the *Auditor* is, or at any time within two (2) years before appointment has been, an employee or partner of the *Member*; or
 - (b) the *Auditor* has, or had at any time within two (2) years before appointment, any material financial interest in any enterprise, corporation or business with the *Member* pursuant to Professional Statement F.1 "Professional Independence"; or
 - (c) the other *Member* audits the *Member's Trust Bank Account*; or
 - (d) where it may be considered that independence may be or may appear to be impaired, pursuant to Professional Statement F.1 "Professional Independence".
40. The audit shall be performed in accordance with the Australian Auditing Standards and the report prepared in accordance with the form of *Auditor's Report* at Appendix 1 to this Statement.
41. The *Auditor* shall report to CPA Australia/the Institute upon becoming aware of:
- (a) any *deficiency*, other than those of a trivial nature, of *Trust Money* or in the *Trust Bank Account*; or
 - (b) a failure by a *Member* to pay or deposit any *Trust Money* within the prescribed period, or to adequately account for *Trust Money*; or
 - (c) any matter arising in the course of the audit or otherwise that may be considered of significance to CPA Australia/the Institute regarding the *Trust Account*.
42. Working papers of the *Auditor* shall be retained for a period of five (5) years after the completion of the annual audit of the *Member's Trust Account*.
43. A *Member* shall not:
- (a) refuse or fail to allow CPA Australia/the Institute or an *Auditor* access to the *Trust Bank Account*, *Trust Account* and *Trust Account Records* (including those of the *Member's* practice and files); or
 - (b) refuse or fail to give any information or explanations as and when required; or
 - (c) hinder, obstruct or delay CPA Australia/the Institute or an *Auditor* in the performance of their duties or powers pursuant to this Statement or as required by law.
44. Where a *Member* intends to remove the *Auditor* of the *Trust Bank Account*, the *Member* shall seek the approval of the Chief Executive Officer of CPA Australia/the Institute, or their delegate, to replace the *Auditor* and the *Member* shall provide an explanation of the reasons for the proposed change, together with the *Auditor's* consent to resign, or the *Auditor's* reasons opposing the removal.

45. **A new *Auditor* shall be appointed by the *Member* within 14 days of the resignation or removal of the previous *Auditor*,**

Money Laundering

- 46.1. **It is an offence at law for *Members* to be involved in money laundering transactions or in the utilisation of the proceeds of a crime.**
- 46.2. Persons and organisations engaged in crime may seek to use *Member's Trust Bank Accounts* to disguise the criminal origins of funds. Institute *Members* are referred to Guidance Notes N2 "Money Laundering Guidelines" and are required to report suspect money laundering activities to the appropriate authorities or otherwise seek advice from the Institute's Divisional General Manager, Standards & Public Affairs. CPA Australia members may seek advice from CPA Australia's Divisional Director or Ethics/Professional Conduct Officers in each State.

APPENDIX 1

To (The Member)

AUDITOR'S REPORT

Scope

I have audited the trust accounting records and other trust account records of the trust account(s) maintained by (name of Member or firm etc) in respect of the periodto.....20XX.

It is noted that due to the inherent limitations of an audit there is always a possibility that the audit may not detect a material breach of trust account requirements.

The Name(s) of the Account(s) is/are (Account Name(s))

My audit was conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether (name of Member or firm etc) has/have complied with APS 10 – “Trust Accounts”. My procedures included an examination, on a test basis, of the transaction of (each of) the *Trust Account(s)*. The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In my opinion (name of Member or firm etc) has/have complied with the standards in APS 10 – “Trust Accounts” for the periodto.....20XX.

OR

Qualified Audit Opinion

In my opinion (name of Member or firm etc) has/have not complied with the standards in APS 10 – “Trust Accounts” for the periodto.....20XX. The following breaches were detected by me in respect of the period covered by my audit:

Date:

Address:

Auditor:

APPENDIX 2

TRUST ACCOUNT AUDIT ENGAGEMENT LETTER

[Date]

[Client Name and Address]

Audit of Trust Account - (Name of Account)

Scope

You have requested that I/we audit your trust account as of and for the year ending 31 March I am/We are pleased to confirm my/our acceptance and my/our understanding of this engagement by means of this letter.

The audit will be conducted with the objective of expressing an opinion on whether or not the trust account complies with the requirements contained in APS 10 – “Trust Accounts”.

I/We will conduct the audit in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the accounting and other records of the trust account are free of material misstatement. The procedures will include a review, on a test basis, of the internal controls over the operation of the trust account and relevant accounting information.

In addition to expressing our opinion as to whether the trust account has been maintained in accordance with the requirements of APS 10 – “Trust Accounts”, we expect to provide you with a separate letter concerning any material weaknesses in the internal control structure that come to my/our notice.

I/We remind you that it is your responsibility to maintain an adequate system of internal control, to maintain proper accounting records and to ensure that the conditions of APS 10 – “Trust Accounts” are complied with throughout the year.

Quality Control

The conduct of my/our audit in accordance with Australian Auditing Standards means that information acquired by me/us in the course of the audit is subject to strict confidentiality requirements. Information will not be disclosed to other parties except as required or allowed for by law or professional standards, or with your express consent. The audit files may, however, be subject to review as part of the quality control review program of The Institute of Chartered Accountants/CPA Australia which monitors compliance with professional standards by its Members. I/We advise you that by signing this letter you acknowledge that, if requested, my/our audit files relating to this audit will be made available under this program. Should this occur, I/we will advise you. The same strict confidentiality requirements apply under this program as apply to me/us as your auditor.

Fees

I/We look forward to full co-operation with your staff and trust that they will make available whatever records, documentation and other information that are requested in connection with the audit. My/Our fees, are based on the time required to perform the engagement plus out-of-pocket expenses. Individual hourly rates vary according to the degree of responsibility involved and the experience and skill required.

Other

This letter will be effective for future years unless it is terminated, amended or superseded.

Please sign and return the attached copy of this letter to indicate that it is in accordance with your understanding of the arrangements for your trust account audit.

Yours faithfully,

(signed)

.....
[Name and title]

.....
[Date]

Acknowledgement ofCA/FCA/CPA/FCPA

(signed)

.....
[Name and Title]

.....
[Date]