

Standard: APES 310 Dealing with Client Monies

ISSUED: (DATE)

Prepared and issued by
Accounting Professional and Ethical Standards Board

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1. Scope and application

- 1.1 Accounting Professional & Ethical Standards Board Limited (APESB) issues professional standard APES 310 *Dealing with Client Monies (the Standard)*, which is effective from 1 July 2011. This Standard supersedes APS 10 *Trust Accounts* and GN 3 *Operation of Trust Accounts*. Earlier adoption of this Standard is permitted.
- 1.2 APES 310 sets the standards for Members in Public Practice who Deal with Client Monies or who act as an Auditor of Client Monies¹. The mandatory requirements of this Standard are in **bold-type (black lettering)**, preceded or followed by discussion or explanations in normal type (grey lettering). APES 310 should be read in conjunction with other professional duties of Members and any legal obligations that may apply.
- 1.3 **Members in Public Practice in Australia shall follow the mandatory requirements of APES 310 when they Deal with Client Monies or when they act as an Auditor of Client Monies**¹.
- 1.4 **Members in Public Practice practising outside of Australia shall follow the mandatory requirements of APES 310 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**
- 1.5 **Members in Public Practice shall be familiar with relevant Professional Standards and guidance notes when providing Professional Services**². All Members shall comply with the fundamental principles outlined in the Code.
- 1.6 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.7 All references to Professional Standards, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.8 In applying the requirements outlined in APES 310, Members in Public Practice should be guided not merely by the words but also by the spirit of the Standard and the Code.

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2. Definitions

For the purpose of this Standard:

Applicable Year-End Date means an appropriate year-end date, which once determined cannot be changed without the approval of the applicable Professional Body. The Applicable Year-End Date must occur within 12 months of the month-end following the opening of a Trust Account or the Member in Public Practice obtaining the authority to operate a Client Bank Account.³²

Auditing and Assurance Standards means:

- the AUASB standards, as described in ASA 100 *Preamble to AUASB Standards* and the *Foreword to AUASB Pronouncements*, issued by the AUASB, and operative from the date specified in each standard; and
- those standards issued by the AuASB which have not yet been revised and reissued (whether as standards or as guidance) by the AUASB, to the extent that they are not inconsistent with the AUASB standards.

AuASB means the Auditing and Assurance Standards Board which issued Australian Auditing and Assurance Standards up to 30 June 2004, under the auspices of the Australian

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Deleted: <#>In relation to reports for reporting periods and engagements commencing prior to 1 July 2006, the auditing and assurance standards issued by the AuASB on behalf of CPA Australia and the Institute of Chartered Accountants in Australia.¶

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Accounting Research Foundation, a joint venture of CPA Australia and the Institute of Chartered Accountants in Australia.

AUASB means the Australian statutory body called the Auditing and Assurance Standards Board established under section 227A of the *Australian Securities and Investments Commission Act 2001*.

Auditor of Client Monies¹ means a Member in Public Practice:

- who has been engaged to perform an audit engagement of another Member in Public Practice's compliance with this Standard; and
- holds a certificate of public practice of one of the Professional Bodies.

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday.

Client means an individual, firm, entity or organisation to whom or to which Professional Services are provided by a Member in Public Practice in respect of engagements of either a recurring or demand nature.

Client Bank Account means a Client's bank account held with a Financial Institution ^{for³} which a Member in Public Practice, acting either solely or in conjunction with one or more people, holds a signing authority.

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Client Monies means:

- (a) any Monies (in whatever form) coming into the control of a Member in Public Practice or any of the Member's Personnel^{GC3} which are³ the property of a Client. "Control" means a situation where a Member or any of the Member's Personnel^{GC3}, acting either solely or in conjunction with one or more people, can authorise the transacting of Client Monies; and
- (b) where the Member in Public Practice or the Member's Personnel has no present entitlement to such Monies.³

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Client Monies exclude:

- a cheque made payable to someone other than the Client, received by a Member in Public Practice and forwarded promptly to the payee;
- Monies administered under any insolvency legislation for which a separate bank account is opened by a receiver, liquidator or similar person; or
- fees paid in advance for Professional Services agreed to be performed and clearly identified as such.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Deals (or Dealing) with Client Monies means to hold, receive or disburse Client Monies.

Deficiency means a deficit or shortfall of Client Monies, as disclosed by Records maintained by a Member in Public Practice, or in the records of a Financial Institution at which an account is held. However, it does not include any Deficiency which the Auditor of Client Monies¹ is satisfied was caused solely by an error of a Financial Institution which has been subsequently rectified.

Financial Institution means a bank, building society, credit union or such other financial entity that is regulated by the Australian Prudential Regulation Authority (APRA) in accordance with the *Banking Act 1959*.

Firm means

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- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties through ownership, management or other means;
- (c) An entity controlled by such parties through ownership, management or other means; or
- (d) An Auditor-General's office or department.

Member means a member of a Professional Body that has adopted this Standard as applicable to their membership, as defined by that Professional Body.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax or consulting) in a Firm that provides Professional Services. The term is also used to refer to a Firm of Members in Public Practice and means a practice entity as defined by the applicable Professional Body.

Monies means cash, foreign currency, any negotiable instrument and any security, the title to which is transferable by delivery (for example, bills of exchange and promissory notes), including delivery by electronic funds transfer.

Personnel means employees, officers, directors, contractors or agents.^{GC3}

Professional Bodies means the Institute of Chartered Accountants in Australia, CPA Australia and the National Institute of Accountants.

Professional Standards means all standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable Professional Body.

Professional Services means services requiring accountancy or related skills performed by a Member in Public Practice including accounting, auditing, taxation, management consulting and financial management services.

Records means documentation evidencing the Dealing with Client Monies via a Trust Account or a Client Bank Account, or otherwise Dealing with Client Monies in accordance with a Client's instructions.

Trust Account means an account opened by a Member in Public Practice or by another party on behalf of the Member^{GC3} with a Financial Institution which is kept for the sole purpose of Dealing with Client Monies. A Trust Account can be in the form of:

- one or more accounts Dealing with Monies of one Client; or
- one or more accounts Dealing with Monies of multiple Clients.

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3. Fundamental responsibilities of Members in Public Practice

- 3.1 A Member in Public Practice who Deals with Client Monies or acts as an Auditor of Client Monies¹ shall comply with Section 100 *Introduction and Fundamental Principles* of the Code and relevant law.
- 3.2 A Member in Public Practice who Deals with Client Monies or acts as an Auditor of Client Monies¹ shall comply with Section 220 *Conflicts of Interest* and Section 280 *Objectivity – All Services* of the Code.

Public interest

- 3.3 In accordance with Section 100 *Introduction and Fundamental Principles* of the Code, a Member in Public Practice shall observe and comply with the Member's public interest obligations when the Member Deals with Client Monies or acts as an Auditor of Client Monies¹.

Professional competence and due care

- 3.4 A Member in Public Practice who Deals with Client Monies or acts as an Auditor of Client Monies¹ shall maintain professional competence and exercise due care in the performance of the Member's work in accordance with Section 130 *Professional Competence and Due Care* of the Code.

Confidentiality

- 3.5 In accordance with Section 140 *Confidentiality* of the Code, a Member in Public Practice who acquires confidential information in the course of the Member's work for a Client shall not use that information for any purpose other than the proper performance of the professional work for that Client.

Part A: Professional obligations of a Member in Public Practice who Deals with Client Monies

4. General principles

- 4.1 A Member in Public Practice who Deals with Client Monies shall comply with Section 270 *Custody of Client Assets* of the Code.
- 4.2 Subject to paragraphs 4.11, 4.12 and 6.7, a Member in Public Practice shall only Deal with Client Monies through a Client Bank Account or a Trust Account and only in accordance with the Client's instructions.
- 4.3 It is preferable that a Client's instructions are in writing. Where a Client gives an oral instruction, a contemporaneous note should be made and kept on file by the Member in Public Practice recording the relevant details.
- 4.4 A Member in Public Practice shall be accountable for all Client Monies and keep Client Monies separate from all other Monies of the Member.

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4.5 A Member in Public Practice shall implement appropriate internal controls and procedures in respect of the operation of a Trust Account and a Client Bank Account. The Member shall take all reasonable steps to ensure that those internal controls achieve the following objectives:

- a) Client Monies are dealt with in accordance with the Client's instructions and this Standard;
- b) A Trust Account is properly safeguarded and accounted for; and
- c) A Client Bank Account is properly safeguarded against unauthorised access or use.

4.6 A Member in Public Practice shall not obtain any benefit from Dealing with Client Monies, including benefits deriving from the deposit and/or investment of Client Monies, without prior written authority from the Client.

~~4.7~~⁵ A Member in Public Practice may charge fees in respect of Dealing with Client Monies.

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~~4.8~~ A Member in Public Practice shall bear any Financial Institution, statutory or other government charges in respect of a Trust Account.

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~~4.9~~ A Member in Public Practice shall only deposit the Member's own funds to a Trust Account:

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- (a) to meet any charges made to the Trust Account where the Financial Institution has made such charges to the Trust Account in error, instead of to the Member's general bank account; or
- (b) to meet a Financial Institution's prescribed minimum requirements for an ongoing account balance.

4.10 A Member in Public Practice who is acting as a trustee or under a power of attorney shall comply with the Member's legal and fiduciary duties as trustee or attorney when Dealing with Client Monies, and shall apply this Standard to the extent practicable.

4.11 A Member in Public Practice shall not:

- a) receive or pay into a Trust Account or a Client Bank Account; or
 - b) disburse out of a Trust Account or a Client Bank Account
- any Monies if the Member believes on reasonable grounds that they were obtained from, or are to be used for, illegal activities or that Dealing with the Monies is otherwise unlawful.

4.12 When Dealing with Client Monies, a Member in Public Practice shall not be involved in any money laundering transactions or in the utilisation of the proceeds of crime or terrorist financing.

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5. Opening a Trust Account

- 5.1 A Member in Public Practice who Deals in Client Monies shall open a Trust Account at a Financial Institution in the name of the Member or the Member's Firm and include the term "Trust Account" in its title, unless the Member has been authorised to operate a Client Bank Account.
- 5.2 Paragraph 5.1 does not apply where a Member in Public Practice who does not wish to Deal in Client Monies receives Client Monies and dispatches them within 5 business days to the Client, drawer or sender as appropriate.
- 5.3 A Member in Public Practice shall document the process followed to establish the identity of a Client and the source of Client Monies prior to Dealing with Client Monies.
- 5.4 A Member in Public Practice shall open and maintain a separate Trust Account where a Client requests one.
- 5.5 Where a Member in Public Practice opens a Trust Account, the Member shall ensure that the application form and/or terms of conditions relating to a Trust Account require that:
- (a) all Monies standing to the credit of that account are held by the Member as Client Monies and that the Financial Institution is not entitled to combine the account with any other account, or to exercise any right to set-off or counterclaim against Monies in that account in respect of any sum owed to the Financial Institution on any other account; and
 - (b) any interest payable in respect of the account balance must be credited to that account.
- 5.6 A Member in Public Practice shall retain a copy of the application form and terms of conditions relating to a Trust Account as part of their Records and, where requested, provide a copy to a Client within 10 Business Days of that request.
- 5.7 A Member in Public Practice shall inform the Client in writing:
- (a) no later than at the time of initial deposit into a Trust Account¹⁰, the details of the Financial Institution at which the Client Monies are to be held; and
 - (b) if there is a change to the existing Financial Institution arrangements, within 10 Business Days where the Client Monies are held.

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6. Dealing with Client Monies

Holding and receiving Client Monies

- 6.1 A Member in Public Practice shall deposit Client Monies within 3 Business Days of receipt.
- 6.2 A Member in Public Practice shall only hold Client Monies in a Trust Account for the period necessary to enable the purpose for which the Client Monies were received to be discharged.
- 6.3 A Member in Public Practice receiving Client Monies where the payee is no longer a Client, or the intended recipient is unknown to the Member, shall return the Monies within 10 Business Days to the drawer or sender as appropriate.

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- 6.4 Where a Member in Public Practice is unable to disburse Client Monies to the Client, payee, drawer or sender, the Member shall comply with relevant legislation in respect of unclaimed Monies.
- 6.5 A Member in Public Practice shall record the following information for Client Monies received, or Monies received for deposit into a Client Bank Account:
- the name of the person from whom Monies were received;
 - the amount of Monies;
 - the Client for whose benefit Monies are held;
 - the purpose for which Monies were received or other description of the Monies;
 - the date on which Monies were received;
 - the form in which Monies were received; and
 - in relation to Client Monies of a kind referred to in paragraph 6.7, the location where the Monies are held.
- 6.6 A Member in Public Practice shall issue an acknowledgement to the Client within 21¹⁴ Business Days or as otherwise agreed with the Client containing the details specified in paragraph 6.5 and stating that the Member has deposited the Client Monies into a Trust Account or a Client Bank Account.
- 6.7 A Member in Public Practice who receives Client Monies that are not capable of being deposited into a Financial Institution shall safeguard the Monies against unauthorised use, record details in an appropriate register, and issue an acknowledgement to the Client within 21¹⁴ Business Days containing the details specified in paragraph 6.5.
- 6.8 Client Monies that are not capable of being deposited into a Trust Account or a Client Bank Account may include promissory notes or a coin collection. In such circumstances the requirements of paragraphs 4.1 and 6.7 apply.

Disbursement of Client Monies

- 6.9 A Member in Public Practice shall disburse Client Monies within 3 Business Days of receipt of instructions in respect of the disbursement or in accordance with the terms of engagement.
- 6.10 Only a Member in Public Practice, or any persons authorised in accordance with paragraph 6.12, shall operate the Member's Trust Account.
- 6.11 A Member in Public Practice shall ensure that the Member has appropriate Records¹⁵ to transact electronic funds transfers from a Trust Account or a Client Bank Account.
- 6.12 In circumstances where a Member in Public Practice is not available to authorise Trust Account transactions in a timely manner, the Member shall delegate in writing the Member's authority to effect transactions to:
- another Member in Public Practice¹⁶;
 - solicitors holding a current practising certificate;
 - suitably competent Personnel of the Member's practice; or
 - Financial Institution managers.

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6.13 A Member in Public Practice who wishes to disburse Monies from a Trust Account or a Client Bank Account relating to professional fees and/or expenses due from a Client, shall obtain the Client's written approval prior to such disbursement.

6.14 A Member in Public Practice shall not make a disbursement to or on behalf of a Client from a Trust Account that exceeds the amount of funds standing to the credit of that Client.

7. Documentation

7.1 A Member in Public Practice shall maintain Records to appropriately document transactions in respect of Client Monies.

7.2 A Member in Public Practice shall ensure that all interest earned on Trust Accounts¹⁸ is credited to the relevant Client's account.

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7.3 A Member in Public Practice shall maintain Records²⁰ that:

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(a) enables transactions involving Client Monies to be audited;

(b) discloses the financial²⁰ position of Client Monies; and

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(c) clearly identifies the transactions made on behalf of each Client.

7.4 Subject to legislative requirements, a Member in Public Practice shall retain and ensure that all documentation in respect of Client Monies is accessible for at least 7 years.

7.5 Subject to legislative requirements, a Member in Public Practice shall take reasonable steps to ensure that the Client authorises the Member's Professional Body to have²³ access to the Member's Records²⁵ in respect of Client Monies for the purposes of an inspection, quality review or disciplinary proceedings of the applicable Professional Body.

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7.6 A Member in Public Practice shall keep Records in such a manner as to disclose clearly:

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(a) the details of all transactions involving Client Monies, including:

(i) details of all Client Monies paid direct to the Client, or to a third party nominated by the Client;

(ii) details of all cheques received and endorsed by the Member for disbursement to the Client, or to a third party nominated by the Client;

(iii) details of all electronic funds transfers of Monies received, and of Monies transferred direct to the Client, or to a third party nominated by the Client; and

(iv) details of any errors in transactions involving Client Monies;

(b) the details and basis of calculation of all interest earned on Client Monies held in a Trust Account²⁶ and that the interest has been applied by the Member in accordance with paragraph 5.5(b);

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(c) the financial²² position of a Member's Trust Account or Client's Bank Account and the Client Monies therein; and

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(d) the signatories for each Client Bank Account authorised by the Client.

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7.7 A Member in Public Practice shall reconcile the Trust Account Records to the Trust Account at least every 25 Business Days. The Member shall correct any differences or errors within 5 Business Days.

7.8 A Member in Public Practice shall provide a statement containing details of the Member's application of Client Monies and any interest earned on Client Monies, either to the Client or to such other person as directed by the Client:

- (a) in respect of all transactions, at least annually;
- (b) upon completion of the matter requiring the maintenance of the Trust Account or Client Bank Account;
- (c) in respect of any transaction, upon written request from the Client; or
- (d) when a Trust Account or Client Bank Account is closed or if the Member's authority to operate a Client Bank Account is revoked.

7.9 A Member in Public Practice shall issue the statements referred to in:

- (a) paragraph 7.8(a) within 30 Business Days of the Applicable Year-End Date²⁸;
- (b) paragraphs 7.8(b) and 7.8(d) within 25 Business Days;
- (c) paragraph 7.8(c) within 5 Business Days.

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7.10 Where a Client receives Client Bank Account statements directly from a Financial Institution, a Member in Public Practice shall provide to the Client details of transactions undertaken by the Member within 25 Business Days of the end of each month or as otherwise agreed with the Client.

7.11 A Member in Public Practice who operates a Client Bank Account shall ensure, except when the Client also transacts business through the Client Bank Account and receives statements directly from the Financial Institution, that the Records for the Client Bank Account are reconciled to the Financial Institution statements at least every 25 Business Days. The Member shall take action to correct any difference or error identified during the reconciliation within 5 Business Days of such identification³⁰.

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8. Audit of a Member in Public Practice's compliance with this Standard

8.1 Subject to legislative requirements, a Member in Public Practice shall ensure that the Member's compliance with the requirements of this Standard is audited annually within 3 months of the Applicable Year-End Date.

8.2 A Member in Public Practice who Deals with Client Monies shall appoint another Member in Public Practice as Auditor of Client Monies¹ to perform the audit pursuant to the requirements of this Standard.

8.3 Paragraphs 8.1 and 8.2 do not apply to a Member in Public Practice in circumstances where a Trust Account is audited in accordance with *Trust Accounts Act 1973* (Qld) or similar legislative requirements.

8.4 A Member in Public Practice whose compliance with this Standard is audited shall bear the cost of the audit.

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8.5 A Member in Public Practice shall:

- (a) allow the Member's Professional Body or the Auditor of Client Monies¹ access to the Member's Records; and
- (b) assist the Member's Professional Body or the Auditor of Client Monies¹ in the performance of their duties.

8.6 A Member in Public Practice shall notify the applicable Professional Body and the Auditor of Client Monies³⁶ within 5 Business Days of becoming aware of any Deficiency of Client Monies occurring in the Trust Account along with details of corrective action taken by the³⁶ Member.

8.7 A Member in Public Practice who proposes to change the existing Auditor of Client Monies¹, shall first obtain the approval of the applicable Professional Body.

8.8 A Member in Public Practice shall appoint a replacement Auditor of Client Monies¹ within 10 Business Days of the resignation or removal of the existing Auditor of Client Monies¹.

8.9 Where a Member in Public Practice ceases public practice and:

- (a) another Member in Public Practice is willing to accept the transfer of obligations to transact Client Monies in accordance with this Standard, the Member ceasing public practice shall obtain the written consent of the Client prior to the transfer; or
- (b) no other Member in Public Practice is willing to accept the transfer of obligations to transact Client Monies or written consent in accordance with paragraph 8.9(a) has not been obtained, the Member or their legal representative³⁷ shall return Client Monies to the Client.

8.10 Where the circumstances described in paragraph 8.9 are applicable, a Member in Public Practice shall engage an Auditor of Client Monies¹ to audit the Member's compliance with this Standard for the period where the Member was responsible for Client Monies which has not otherwise been subject to audit.

8.11 A Member in Public Practice shall ensure that the Member's compliance with this Standard is audited within 3 months of ceasing to Deal with Client Monies.

Part B: Professional obligations of an auditor of a Member in Public Practice's compliance with this Standard

9. Professional obligations of an Auditor of Client Monies¹

9.1 Subject to any legal requirements, a Member in Public Practice who acts as an Auditor of Client Monies¹ shall perform the audit in accordance with Auditing and Assurance Standards.

9.2 The Auditor of Client Monies¹ shall prepare the auditor's report in accordance with Auditing and Assurance Standards. If the report contains a modified opinion, the Auditor of Client Monies shall³⁸ lodge the report with the applicable Professional Body within 15 Business Days of completion of the audit.

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- 9.3 Appendix 1 to this Standard contains an example of an audit report.
- 9.4 The Auditor of Client Monies¹ shall comply with Section 290 *Independence – Assurance Engagements* of the Code.
- 9.5 The Auditor of Client Monies¹ shall not undertake an audit of another Member in Public Practice's compliance with this Standard in circumstances where a reasonable and informed third party having knowledge of all relevant information, including safeguards applied would determine that the auditor's independence is impaired as a result of a past, existing or proposed relationship.
- 9.6 The Auditor of Client Monies¹ shall report any Deficiency of Client Monies to the Member's Professional Body within 5 Business Days upon becoming aware of the Deficiency.
- 9.7 The Auditor of Client Monies¹ shall report to the Member's Professional Body within 10 Business Days of becoming aware of any material:
- (a) failure by a Member to comply with paragraphs 6.1 or 6.9 of this Standard;
 - (b) uncorrected error reflected in a statement issued by a Financial Institution; or
 - (c) circumstances where Client Monies have not been transacted or maintained in accordance with this Standard.
- 9.8 Subject to legislative requirements, the Auditor of Client Monies¹ shall retain the relevant working papers for a period of at least 7 years.
- 9.9 A Member in Public Practice who wants to resign from the position of Auditor of Client Monies shall notify and obtain the approval of the applicable Professional Body³⁸.

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Conformity with International Pronouncements

The International Ethics Standard Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 310.

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Appendix 1

Example of an audit report

To [The applicable Professional Body]

Report on the compliance of [Member or Firm] with the requirements of APES 310

We have audited the compliance of [Member or Firm] with the requirements of APES 310 *Dealing with Client Monies* (APES 310) for the [year ended / /].

The Responsibility of [Member or Firm] for compliance with APES 310

[Member or Firm] is responsible for compliance with the requirements of APES 310. This responsibility includes establishing and maintaining internal controls relevant to compliance with the requirements of APES 310.

Auditor's Responsibility

Our responsibility is to express a conclusion on [Member or Firm]'s compliance with the requirements of APES 310. Our audit has been conducted in accordance with applicable Standards on Assurance Engagements including ASAE 3100 *Compliance Engagements* and with APES 310, in order to state whether, in all material respects, [Member or Firm] has complied with the requirements of APES 310 for the [year ended / /]. Our procedures included examination, on a test basis, of evidence supporting [Member or Firm]'s compliance with APES 310. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our conclusion. ASAE 3100 also requires us to comply with the relevant ethical requirements, s. including independence requirements of APES 110 Code of Ethics for Professional Accountants⁴⁰.

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Limitations on Use

This audit report has been prepared for [the applicable Professional Body] in accordance with APES 310. We disclaim any assumption of responsibility for any reliance on this report to any persons or users other than [the applicable Professional Body], or for any purpose other than that for which it is prepared.

Inherent Limitations

Because of the inherent limitations of any audit, it is possible that fraud, error or non compliance may occur and not be detected. An audit is not designed to detect all instances of non compliance with the requirements of APES 310, as an audit is not performed continuously throughout the [period] and the audit procedures performed are undertaken on a test basis. The conclusion expressed in this report has been formed on the above basis.

Independence

In conducting our audit, we have complied with the independence requirements of APES 110 Code of Ethics for Professional Accountants⁴⁰.

Conclusion

(A) Unqualified

In our opinion, [Member or Firm] has complied, in all material respects, with the requirements of APES 310 for the [year ended / /].

OR

(B) Qualified

In our opinion, except for [provide details of exceptions], [Member or Firm] has complied, in all material respects, with the requirements of APES 310 for the [year ended / /].

Address Member or Firm

Date

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