



NOVA SCOTIA
BARRISTERS' SOCIETY

**ACCOUNTANT'S AGREED UPON PROCEDURES REPORT
ON THE TRUST ACCOUNT (ACCOUNTANT'S REPORT)**

With respect to certain books, records and accounts maintained in connection with the law practice of:

| |
|--|
| |
|--|

Firm/Member Number:

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

The name of the accountant engaged to complete the Accountant's Report is:

| |
|--|
| |
|--|

ENGAGEMENT

The accountant's engagement for completing the Accountant's Report must be in writing. A sample engagement letter is available on the Society's website (nsbs.org).

PURPOSE

The Accountant's Report is the means by which the Nova Scotia Barristers' Society may determine whether or not:

1. The lawyer or law firm has an adequate system for recording all financial transactions of the law practice in order to comply with the Regulations of the Nova Scotia Barristers' Society;
2. The system referred to in (1) is being properly used by the lawyer or law firm;
3. There were no contraventions of Sections 29 – 32 of the Legal Profession Act or Parts 4 and 10 of the Regulations made pursuant to the Act;
4. The lawyer or law firm has properly maintained trust accounts for the law practice in accordance with the requirements of Sections 29-32 of the Act and Part 10 of the Regulations.

Where appropriate, read "we" for "I" throughout.

INSTRUCTION SUMMARY

1. This document is a working copy of the Accountant's Report. It can be used for preparing your report for electronic submission to the Society. All Accountant's Reports are to be submitted electronically via the Society's Assessment System. If space on the computer-generated version of the Accountant's Report is insufficient, a reference on it should be made to accompanying remarks. In January, all accountants selected to file an Accountant's Report will have received an email with a link to the NSBS Assessment System for the purpose of filing the Accountant's Report electronically. Any questions about the method of filing or the Accountant's Report in general, can be submitted to TrustAccounts@nsbs.org.
2. Notwithstanding point (1), this pdf form may be used for a *final* Accountant's Report if the closure of the law firm is part-way through the calendar year.
3. Only a public accountant licensed by the Chartered Professional Accountants of Nova Scotia may complete the Accountant's Report. The accountant must be independent of the law firm and must have an Audit or Review License and be listed on the Public Accounting License Holders directory on the Chartered Professional Accountants of Nova Scotia website (cpans.ca).

4. Review and gain familiarity with Sections 29 - 32 of the Nova Scotia Legal Profession Act and Part 4 and Part 10 of the Regulations under the Act.
5. The typical reporting period for all law firms is January 1 through to December 31. The law firm's annual Trust Account Report (TAR) and the Accountant's Report are both due March 31. In prior years, the Accountant's Report procedures specified the review of the law firm's annual TAR. The accountant is no longer required to review the TAR.
6. With respect to a lawyer or law firm's trust accounts, there is no materiality allowance. The amount of money involved in any matter under review ought not to be a concern for you. Your responsibility is to report to the Society all exceptions that you discover in the course of your engagement.
7. If there are numerous minor exceptions of a similar nature, it is only necessary to report on the general situation. For trust debit balances of less than \$10, only the number of times the situation has arisen need be noted.

Provide as much detail as possible about exceptions, including the date of occurrence, the nature of the transaction, and the date and nature of the corrective action taken by the lawyer or law firm. In certain cases, you may wish to expand your work and examine additional material concerning transactions you consider to be exceptions or areas where you believe exceptions could exist. If independent verification from third parties is desirable, authorization from the lawyer or law firm should be obtained in order to ensure confidentiality is maintained on client accounts. Any refusal to allow independent verification or other concerning information you may discover should be reported promptly to the Society.

ENGAGEMENT AND FIELDWORK

The accountant's work for preparation of this Accountant's Report on the Trust Account was done pursuant to a written engagement dated: _____

My fieldwork for this engagement was completed on (date): _____

This report covers the period from _____ to _____

During my engagement I conducted my fieldwork at (the place of business of the member/firm or remotely): _____

Within the past twelve months I have reviewed and am familiar with Section 29 - 32 of the Nova Scotia Legal Profession Act and Part 4 and Part 10 of the Regulations under the Act. Yes No

I have been informed by the member/firm that I have been provided with the member's/firm's records of all general trust accounts, all specific trust accounts and all other valuable property held in trust by the member or firm during the period covered by this report. Yes No

In addition to this Accountant's Report, I/my firm also provides other services to this lawyer/law firm. Yes No

This is the number of hours I spent completing this Accountant's Report: _____

Below is a list of all general trust accounts that were reviewed for this report:

| Financial Institution # | Transit # | Account # |
|-------------------------|-----------|-----------|
| | | |
| | | |
| | | |
| | | |
| | | |

Prepare a separate schedule if more than five general trust bank accounts.

ACCOUNTANT'S AGREED UPON PROCEDURES REPORT ON THE TRUST ACCOUNT (ACCOUNTANT'S REPORT)

PURPOSE OF THIS AGREED-UPON PROCEDURES REPORT

Our report is solely for the purpose of assisting the Nova Scotia Barristers' Society in determining whether the law practice of _____ is compliant with the reporting requirements of Regulation 4.11.4 *Accountant's Report on the Trust Account* and may not be suitable for another purpose. We will submit the Accountant's Report in the prescribed form directly to the Nova Scotia Barristers' Society. The Society uses the Accountant's Report to determine whether the practicing lawyer or law firm has maintained its books, records and accounts as required by S. 29 to 32 of the *Legal Profession Act*, and Part 4 and Part 10 of the Nova Scotia Barristers' Society Regulations. This report covers the period of _____ to _____. This report is intended solely for the law practice of _____ and the Nova Scotia Barristers' Society, and should not be used by, or distributed to, any other parties.

RESPONSIBILITIES OF THE ENGAGING PARTY

The law practice of _____ has acknowledged that the agreed-upon procedures are appropriate for the purpose of the engagement and is responsible for the subject matter on which the agreed-upon procedures are performed.

PRACTITIONER'S RESPONSIBILITIES

We have conducted the agreed-upon procedures engagement in accordance with the Canadian Standard on Related Services (CSRS) 4400, Agreed-Upon Procedures Engagements.

An agreed-upon procedures engagement involves our performing the procedures that have been agreed with the law practice of _____ and reporting the findings, which are the factual results of the agreed-upon procedures performed.

We make no representation regarding the appropriateness of the agreed-upon procedures.

This agreed-upon procedures engagement is not an assurance engagement. Accordingly, we do not express an opinion or an assurance conclusion.

Had we performed additional procedures, other matters might have come to our attention that would have been reported.

PROFESSIONAL ETHICS

We have complied with ethical requirements, including those pertaining to independence, set out in the applicable rules of professional conduct and/or code of ethics issued by the Chartered Professional Accountants of Nova Scotia.

PROCEDURES AND FINDINGS

We have performed the procedures described in the report attached, which were agreed upon with the law practice of _____.

Date: _____

Accountant Name: _____

Signature: _____

| PROCEDURES | FINDINGS |
|--|--|
| REVIEW OF CLIENT TRUST LISTINGS | |
| <p>1. Inspect all month-end general trust client balance listings and trust property listings for the period under review and, in particular, identify and note any client shortages (debit balances or overdrawn client accounts).</p> | <p>(a) Did the lawyer/law firm maintain a detailed listing made monthly showing the amount of trust money or trust property held for each client and identifying each client for whom trust money or trust property is held (Regulation 10.4.2(i)(i) Required Records)?</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| | <p>(b) Do the trust listings show, for each person, the unexpended balance (Regulation 10.4.2(c) Required Records)?</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| | <p>(c) Were there any client shortages (debit balances or overdrawn client accounts) listed on any month-end general trust client balances listing (Regulation 10.6.1 No Overdraft Permitted)? (Note 1)</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| REVIEW OF TRUST BANK STATEMENTS | |
| <p>2. Inspect all general trust bank statements noting any overdrafts.</p> | <p>(a) Do any of the trust bank statements indicate an overdraft (Regulation 10.6.1 No Overdraft Permitted)? (Note 1)</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| REVIEW OF TRUST BANK RECONCILIATIONS | |
| <p>3. Inspect all month-end general trust bank reconciliations. Determine if the reconciliations were prepared in a timely manner. Make note of any unusual reconciling items.</p> | <p>(a) Were all month-end general trust bank reconciliations prepared within one month of the month end (Regulation 10.4.2(i)(ii) Required Records)? (For computer generated reconciliations, review the print date; if manual reconciliations, inquire of the law firm.)</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| | <p>(b) Were there any unusual reconciling items noted on any of the month-end general trust bank reconciliations (Regulation 10.4.2(i) Required Records)?</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| REVIEW OF CASH RECEIPTS | |
| <p>4.1 If the lawyer/law firm accepts cash, inspect the book of duplicate receipts. Inspect the book of duplicate receipts to determine if the receipt identifies the date on which cash is received, the person from whom cash is received, the amount of cash received, the client for whom the cash is received, any file number in respect of which cash is received and containing the signature authorized by the lawyer who receives cash and of the person from whom cash is received.</p> | <p>If the lawyer/law firm accepts cash, is a book of duplicate receipts maintained with each receipt identifying the following items:</p> <ul style="list-style-type: none"> - the date on which cash is received - the person from whom cash is received - the amount of cash received - the client for whom cash is received - any file number in respect of which cash is received - the signature authorized by the lawyer who receives cash - the signature of the person from whom cash is received <p>(Regulation 4.12.7 Cash Transactions)</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |

| | | |
|---|--|---|
| <p>4.2 Inspect all general trust cash/deposit books for the period under review (or trust journal if deposit slips are not practical to review). Determine if any lawyer in the law firm received or accepted cash in an aggregate amount of greater than \$7,500 Canadian in respect of any one client matter.</p> | <p>Were there any instances of cash in an aggregate amount of greater than \$7,500 Canadian received in respect of any one client matter? If yes, note the purpose of the cash received and note if the cash received was (a) from a financial institution or public body (b) from a peace officer, law enforcement agency or other agent of the Crown acting in his or her official capacity (c) to pay a fine, penalty or bail or (d) for the purpose of paying professional fees, disbursements, or expenses (Regulation 4.12.2 Limitation on Cash and Regulation 4.12.5 Exception)</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
|---|--|---|

SAMPLE MONTH REVIEW

Inspect one sample month's bank reconciliation and trust listing for all general trust accounts, by preparing the procedures listed below:

| | | |
|--|---|---|
| <p>5.1 Inspect the sample month outstanding cheque listing and compare a sample of 5 outstanding cheques to copies of returned cashed cheques.</p> | <p>For the sample of 5 outstanding cheques compared to copies of returned cashed cheques, were there any instances of a cashed cheque not matching the date of payment, cheque number, or name of recipient (payee) recorded in the accounting records (outstanding cheque listing or other data source) (Regulation 10.4.2(b) Required Records)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>5.2 Inspect the sample month outstanding deposit listing. Compare outstanding deposits to stamped deposit slips, confirmations or faxes and the bank statement. Make note of the deposit date.</p> | <p>Are all outstanding receipts listed on the outstanding deposit listing cleared by the next banking day (Regulation 10.2.3 Deposit Without Delay)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>5.3 Check mathematical accuracy.</p> | <p>Is the bank reconciliation arithmetically, correct (Regulation 10.4.2(i) Required Records)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>5.4 Inspect sample month other reconciling items.</p> | <p>Were there other reconciling items (apart from outstanding deposits and outstanding cheques) listed on the bank reconciliation (Regulation 10.4.2(i) Required Records)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>5.5 Inspect the sample month cashed cheques, which may include a digital image provided by the practising lawyer's financial institution showing both the front and back of the cheque. Make note of any unusual disbursements such as:</p> <ul style="list-style-type: none"> - Cheques payable to cash - Cheques not signed by at least one lawyer within the law firm - Cheques for personal or operating expenses (visa, car, office, Lawyer's individual name/account etc.) | <p>Were there any cheques payable to cash (Regulation 10.3.7 No Cash or Debit Card Withdrawal)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| | <p>Were there any cheques not signed by at least one lawyer within the law firm (Regulation 10.3.5(b) Requirements for all Withdrawals)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| | <p>Were there any cheques for personal or operating expenses (visa, car, office, Lawyer's individual name/account etc.) (Regulation 10.3.4 Proper Withdrawal from Trust Account)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>5.6 Inspect the sample month trust listing. Make note of any unusual items such as:</p> <ul style="list-style-type: none"> - Client/matter description not related to legal services (e.g., "miscellaneous account", "clearing account", "bank fees", "operating", "unknown funds", "hst", "error", | <p>Were there any unusual items on the trust listing (Regulation 10.2.9 Requirement for Trust Relationship and Regulation 10.2.7 No Mixing of Personal Funds)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |

| | | |
|--|---|---|
| <p>“float account”, etc.)</p> <ul style="list-style-type: none"> - Lawyer listed as a client without a reasonable explanation (look for lawyer’s name) <p>5.7 Inspect the sample month trust listing and note any amount greater than \$10,000 held for a period longer than 90 days. If any are identified, inquire about the legal purpose of the funds and if the client was offered an interest-bearing account.</p> <p>5.8 Inspect the sample month bank statement and note any cash or debit card withdrawal memos.</p> | <p>For any amounts greater than \$10,000 held for a period longer than 90 days, did the lawyer confirm the client was offered an interest-bearing account (Subsection 30 (5) of the <i>Legal Profession Act</i>)?</p> <p>Were there any withdrawals from the firm’s trust accounts by way of cash or debit card or similar instrument (Regulation 10.3.7 No Cash or Debit Card Withdrawal)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
|--|---|---|

SAMPLE CLIENT LEDGER CARDS REVIEW

| | | |
|--|---|---|
| <p>6 Select a random sample of client ledger cards for inspection. Determine the sample size using the following guidance:</p> <ul style="list-style-type: none"> a) five files in the case of a firm of 10 or fewer lawyers; or b) 10 files in the case of a firm of 11 or more lawyers. <p>Complete the procedures listed below.</p> <p>How many samples were selected for inspection? _____</p> <p>This is the number of files I was refused access to inspect: _____</p> <p>How were the samples selected? _____</p> | | |
| <p>6.1 Vouch to client identification information. See Appendix A.</p> | <p>(a) Were there any instances of client identification, client verification, or source of funds non-compliance (Regulation 4.13 Client Identification)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>6.2 Inspect the accounting records of the receipts on each of the sample client ledger cards.</p> | <p>(a) Does the client ledger card or data source show the date of receipt and source of trust money for each client and identify the client on whose behalf the trust money is received (Regulation 10.4.2(a) Required Records)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>6.3 Vouch receipts to dated deposit slips and the bank statement.</p> | <p>(a) Were detailed deposit slips maintained for each receipt (Regulation 10.4.2(h) Required Records)?</p> <p>(b) Were receipts traceable to the bank statement (Regulation 10.4.2(h) Required Records)?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>6.4 Compare receipts to supporting documentation (e.g., agreement, letter, email etc.).</p> | <p>(a) Were the funds deposited to the trust account only those described in Regulation 10.2.6 Money to be Put into Trust Account? (Note 2)</p> <p>(b) Were the funds deposited to the trust account only money that is directly related to legal services that the practicing lawyer or law firm is providing (Regulation 10.2.9.1 Requirement for Trust Relationship)? (Note 3)</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |

| | |
|--|--|
| <p>6.5 Inspect the accounting records of the withdrawals on each of the sample client ledger cards.</p> | <p>(a) Does the client ledger card or data source show the date of each payment, the name of each recipient, and identify the client on whose behalf each payment is made out of trust money (Regulation 10.4.2(b) Required Records)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(b) Were all withdrawals released or effected only after the lawyer or law firm was in possession of funds for the credit of the client on whose behalf the withdrawal was made (Regulation 10.3.5(d))? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>6.6 Vouch withdrawals to returned cashed cheques or lawyer effected withdrawal confirmation (e.g., wire confirmation) and the bank statement.</p> | <p>(a) Were returned cashed cheques or lawyer effected electronic/wire confirmations provided for each withdrawal (Regulation 10.4.2(h) Required Records)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(b) Were all withdrawals made to a named payee (Regulation 10.3.5(a) Requirements for all Withdrawals)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(c) Were all withdrawals made by a practicing lawyer who has received approval to operate a trust account pursuant to subregulation 4.10.4 (Regulation 10.3.5(b) Requirements for all Withdrawals)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(d) Do all withdrawals made identify the trust account from which the funds are withdrawn and the date on which the funds are withdrawn (Regulation 10.3.5(c) Requirements for all Withdrawals)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>6.7 Compare withdrawals to supporting documentation (e.g., agreements, letters, invoices etc.).</p> <ul style="list-style-type: none"> - Inspect client billings to determine that fee transfers from trust are not made before rendering the account to the client, and that fees are reasonably promptly withdrawn as earned and not permitted to accumulate in a trust account. - If the file has been completed, inspect the statement of account to verify that an accurate accounting for receipts and disbursements has been provided to the client. | <p>(a) Was all money withdrawn from a trust account only in accordance with Regulation 10.3.4 Proper Withdrawal from Trust Account, namely: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <ul style="list-style-type: none"> - for payment on behalf of a client or another person; - to remove funds inadvertently deposited to the trust account; - money properly required for or toward payment of the practising lawyer's or law firm's fees that have been disclosed to the client; - as authorized in writing by a person designated by the Society; or - as directed by a Court of competent jurisdiction. |
| <p>6.8 If there is an unexpended balance, enquire about the remaining legal purpose of the balance. Make note of any unexpended balance in relation to a completed matter in which the practising lawyer has not yet issued a final billing or remaining money that should be paid to the client.</p> | <p>(a) Did all practising lawyers pay out money held in a trust account as soon as practicable upon completion of the legal services to which the money relates (Regulation 10.2.9.2 Requirement for Trust Relationship)? (Note 4) <input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| REVIEW OF ANY SPECIFIC TRUST ACCOUNTS | |
| <p>7. Inspect the last specific trust account listing or client trust ledger and bank statement of the year. Make note if a client trust ledger (or data source) identifying the client on whose behalf the invested funds are held and bank statement are maintained.</p> | <p>Was a ledger (or data source) identifying the client on whose behalf the invested funds are held and bank statement for any specific trust accounts maintained (Regulation 10.4.2(c) Required Records)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> |

| OTHER | |
|--|--|
| <p>8. Inspect the last general trust account bank reconciliation of the year. Make note of any stale dated cheques.</p> | <p>Are there any outstanding cheques on the last bank reconciliation of the year that have been outstanding in excess of 6 months (stale dated)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, note the total number of stale dated cheques: _____ If yes, note the dollar value of the stale dated cheques: _____</p> |
| <p>8.1 Inspect the last general trust account listing of the year. Make note of any matters held for more than three years with no activity.</p> | <p>Are there any client matters with a last transaction date exceeding three years? If yes, note the total number of inactive accounts: _____ If yes, note the total dollar value of inactive accounts: _____</p> |
| <p>8.2 Inquire about online access to the lawyer or law firm's trust account and observe access to the account by the lawyer or law firm's staff. Note whether staff have the ability to initiate transactions. Make note of any improper staff access.</p> | <p>Were there any indications of improper staff online access to trust accounts? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| DISCUSSION OF THE RESULTS | |
| <p>9. Discuss the results of the Accountant's Report with the Designated Lawyer.</p> | <p>Were the results of the Accountant's Report discussed with the Designated Lawyer? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>I confirm that I have sent a report to the lawyer/law firm about my findings. <input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| GENERAL COMMENTS | |
| <p>Please use the general comments section to provide any additional clarification. Make note if during the performance of the agreed-upon procedures you became aware of:</p> <ul style="list-style-type: none"> • matters that may indicate fraud or an instance of actual or suspected non-compliance with laws or regulations • other matters that cast doubt on the integrity of the information relevant to the agreed-upon procedures engagement or that indicate that the information may be misleading • procedures that cannot be performed as agreed | |
| | |

APPENDIX A

Sample Client Ledger Card Review - Procedure 6.1 - Vouch to Client Identification Information

There are two levels of client identification and verification.

- If the sample client file is a "retainer only" file, vouch to the identification level information noted in the table below (Regulation 4.13.2 Requirement to Identify Client). Identification information is not required if the file is a referral from another lawyer who has already obtained and recorded client identification or the lawyer is duty counsel (Regulation 4.13.4 Requirement to Identify Client).
- If the sample client file is for funds received where the lawyer has been retained by a client to provide legal services engages in or receives instruction in respect of the receiving, paying, or transferring of funds (e.g., property transaction), vouch to the identification and verification level information noted in the table below (Regulation 4.13.6 When Verification of Client Identity Required). Verification information is not required in respect of funds (a) where the client is a financial institution, public body or a reporting issuer (b) received from a trust account of another lawyer (c) received from a peace officer, law enforcement agency or other public official acting in their official capacity (d) paid or received to pay fine, penalty, bail or (e) paid or received for professional fees, disbursements, or expenses (Regulation 4.13.7 Exemptions re: Certain Funds).

| | Individual Clients or Representative Clients (individuals) | Organizational Clients or Representative Clients (organizations) |
|-----------------------|---|---|
| Identification | <ul style="list-style-type: none"> • Full Name • Home Address and Telephone # • Occupation(s) • Work Address and Telephone # (if applicable) • The applicable date of the procedure performed for client ID information is noted in either a paper or electronic form or database <p>(Regulation 4.13.5(a) Requirement to Identify Client)</p> | <ul style="list-style-type: none"> • Full Name • Business Address • Business Telephone # • Incorporation # or Business ID # (if applicable) • Type of Business • Name, position, and contact information of person authorized to give instructions. • The applicable date of the procedure performed for client ID information is noted in either a paper or electronic form or database <p>(Regulation 4.13.5(b) Requirement to Identify Client)</p> |
| Verification | <ol style="list-style-type: none"> 1. Source of Funds Recorded information about the source of funds (the client's explanation regarding the economic activity or action that generated the client's source of money (e.g., inheritance, savings from salary, life insurance proceeds)). 2. Documents and Information for Verification <ul style="list-style-type: none"> • government-issued photo identification; or • credit file information; or • information from two different, reliable and independent sources that contain: <ul style="list-style-type: none"> - the individual's name and address; - the individual's name and date of birth; or - the individual's name and confirmation they have a deposit account, credit card or other loan with a financial institution. <p>(Regulation 4.13.8(a) Requirement to Verify Client Identity and Regulation 4.13.13 Documents and Information for Verification)</p> | <ol style="list-style-type: none"> 1. Source of Funds Recorded information about the source of funds (the client's explanation regarding the economic activity or action that generated the client's source of money (e.g., inheritance, savings from salary, life insurance proceeds)). 2. Written confirmation from government registry or copy of constating documents for unregistered organizations 3. Verification of individual giving instruction using one of 3 methods for Individual 4. Names of all Directors 5. Recorded information on identity of the beneficial owners or recorded information on identity of senior managing officer <p>(Regulation 4.13.13 Documents and Information for Verification and Regulation 4.13.14 Requirement to Identify Directors, Shareholders and Owners)</p> |

APPENDIX B
Agreed Upon Procedures – Additional Information Notes

Note 1

If the shortage is attributable to a client file, please note the amount, date discovered, date occurred, date corrected, and the reason for the shortage. Reasons: (1) overpayment (2) wrong trust bank account (3) wrong client account (4) deposit NSF (5) bank error/service charges (6) cheque issued before deposit (7) deposit made to general (8) counterfeit/fraudulent cheque (9) clerical error (10) other

Note 2

“Trust money” includes:

- (i) money received in trust belonging in whole or in part to a client, or to be held on behalf of the client, or at the direction or order of a client or another, and
- (ii) money advanced to a practicing lawyer for fees for services not yet rendered or for disbursements not yet made

Note 3

The regulatory experience of law societies has shown that legal professionals sometimes use their trust accounts for purposes unrelated to the provision of legal services, and effectively act as a bank or deposit-taking institution, i.e., holding money for the limited purpose of transferring the trust money from one party to another without the provision of legal services. The use of trust accounts by clients or other parties for transactions that are unrelated to any legal services risks facilitating money laundering through transactions deliberately designed to disguise that the source of funds is from criminal activity. For that reason, trust accounts must not be used except when directly related to the legal services being provided by the law firm.

Note 4

As set out in the rule, the firm must pay out any money remaining in trust following the completion of a transaction or matter as soon as practical. In the spirit of the rule, the firm should ideally review client trust ledger accounts at least monthly. Every effort should be made to pay funds due to the client and to third parties within one month of all trust conditions being satisfied, and similarly, to swiftly transfer funds to the operating account upon billing for legal fees, disbursements or expenses.