

External Examiner Checklist

March 2024



THE LAW SOCIETY
OF NEW SOUTH WALES

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Introduction

The purpose of the External Examiner Checklist (**Checklist**) is to:

- guide the law practice and the external examiner through the examination of the various forms of trust records maintained by the law practice during the trust year 1 April to 31 March; and
- assist in the assessment of compliance with the Legal Profession Uniform Law (NSW) (Uniform Law) and the Legal Profession Uniform General Rules 2015 (Uniform Rules).

The objective of the Checklist is to assist the examiner to form an opinion, amongst other things, as to whether:

- any information recorded in the law practice's Law Practice Confirmation and Statement of Trust Money is not true;
- any overdrawing of trust money was restored, and appropriate action promptly taken;
- the trust records for the various types of trust money have been properly kept in accordance with the provisions of Uniform Law and Uniform Rules;
- all necessary trust records were produced to the examiner as requested for the purpose of the examination and that the records were kept in a way that enables the records to be conveniently and properly externally examined; and
- the trust records have been kept in a way that at all times discloses the true position in relation to trust money received by the law practice.

The External Examiner's Report is required to be completed by a person who is registered as a designated person with the designated local regulatory authority.

The examiner should apply professional judgement together with the various standards prescribed by the professional bodies which cover the individual circumstances of each examination. It is necessary to conduct appropriate examination, sampling techniques and enquiries to form an opinion as to whether the accounting records have been maintained in accordance with the Uniform Law and the Uniform Rules. For any breaches you are unable to identify in the Trust Lodgement Portal, use the text box to provide the particulars of the breach observed.

The use of the Checklist is not mandatory, however if used it is recommended a copy along with relevant supporting documentation is retained by the examiner.

For further information, you can contact and the Chief Trust Account Investigator or the Trust Accounts Department at trust@lawsociety.com.au or (02) 9926 0337.

Trust Money

Keeping of Trust Records

Objective:

- To ensure the law practice has maintained records in accordance with the requirements of the Legal Profession Uniform Law (NSW) (Uniform Law) and the Legal Profession Uniform General Rules 2015 (Uniform Rules).
- To ensure that the law practice is keeping trust records as defined in permanent form and that they have been made readily available to the Examiner.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S147(2)(b)	Do trust accounting records at all times disclose the true position in relation to trust money received on behalf of any person?		
S147(2)(c)	Are trust records kept in a way that enables them to be conveniently and properly investigated or externally examined?		
S147(2)(d)	Are trust records retained for seven years?		

Computerised Accounting Systems

Objective: To ensure that the law practice's computerised accounting system complies with the requirements of the Rules.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
38(1)	Are trust records maintained by means of a computerised accounting system? <ul style="list-style-type: none"> If "No", please go to next section – "TRUST ACCOUNT STATEMENTS -TRUST MONEY" 		
	Has the software been certified by the Law Society? <ul style="list-style-type: none"> If "Yes", please go to next section – "TRUST ACCOUNT STATEMENTS -TRUST MONEY" If "No", please continue below: 		
Does the software used by law practice maintain and keep, in printed form or in readable and printable form, the following copies of trust records:			
38(2)(a)	a copy of the trust account receipts and payments cash books as at the end of each named month?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
38(2)(b)	a copy of the reconciliation statements as at the end of each named month?		
38(2)(c)	a copy of lists of trust account ledgers and their balances (i.e. trial balance statements) as at the end of each named month?		
38(2)(d)	a copy of lists of controlled money accounts and their balances (i.e. controlled money listings) as at the end of each named month?		
Does the law practice:			
38(3)(a)	print a paper copy of trust ledger accounts, the register of controlled money and the trust account transfer journal before they are deleted from the system?		
38(3)(b)	provide to an investigator (which includes an external examiner) carrying out a function described in Section 368 of the Uniform Law), on request, a printed copy of trust ledger account and controlled money account details?		
38(4)	Are the copies of trust records as at the end of each named month referred to under Subrule 38(2) prepared within 15 working days after the named month?		
38(5)	Does the law practice ensure that copies of trust records prepared under Subrule 38(2) cannot be modified afterwards (except as provided by Rule 40 – refer to Rule 40 in this Section of the Checklist)?		
Does the computerised accounting system maintain all changes (by creation, amendment or deletion) to:			
39(2)(a)	client name?		
39(2)(b)	client address?		
39(2)(c)	matter reference?		
39(2)(d)	matter description?		
39(2)(e)	ledger account number or other descriptor (if different from matter reference)?		
39(2)	Are the record of changes (to Rule 39(2)(a) to (e)) kept by the law practice?		
40(2)(a)	Does the system accept an entry of a transaction resulting in a debit balance to any ledger account only if a contemporaneous record of these debit balance transactions is made in a manner that enables the		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	production, on demand, of a separate chronological report of all occurrences of that kind?		
Is the system not capable of deleting a trust ledger account unless:			
40(2)(b)(i)-1	the balance on the trust ledger is zero? and		
40(2)(b)(i)-2	all outstanding cheques (that relate to the trust ledger) have been presented?		
40(2)(b)(ii)	Are copies of deleted ledgers retained in permanent form?		
40(2)(c)	Do the entries in records produced in a permanent form appear in chronological sequence?		
Is each page of each printed or printable record:			
40(2)(d)-1	numbered sequentially? or		
40(2)(d)-2	printed or printable in such a way that no page can be extracted?		
40(2)(e)	Is the system not capable of amending the particulars of a transaction already recorded otherwise than by a transaction separately recorded that makes the amendment?		
40(2)(f)	Are fields requiring input compulsory?		
41(2)(a)	Is a back-up copy of all computerised records made at least once each month?		
41(2)(b)	Is each back-up copy kept by the law practice?		
41(2)(c)	Is a complete set of back-up copies kept in a separate location so that any incident that may adversely affect the records would not also affect the back-up copy?		

TRUST ACCOUNT STATEMENTS -TRUST MONEY

Objective: To ensure that trust account statements are given for all trust money (other than transit money and written direction money) held or controlled.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
Are trust account statements given as soon as practicable after:			
52(4)(a)	completion of each matter?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
52(4)(b)	a reasonable request from the person on whose behalf the money is held or controlled?		
52(4)(c)	Were trust account statements given as soon as practicable after 30 June in the relevant year for accounts not subject to the exception referred to in Rule 52.5 below ?		
52(5)	If statements were not given for certain ledger accounts, as at 30 June was the balance of each ledger account zero and no transaction affecting the account has taken place within the previous 12 months?		
Do trust account statements disclose:			
52(3)(a)	the same detail as required by Rule 47 for general trust money, by Rule 55 for trust money subject to a power to deal with trust money, or by Rule 64 for controlled money?		
52(3)(b)	the remaining balance (if any) of the money?		
52(7)	Are copies of trust account statements retained by the law practice?		

WITHDRAWING TRUST MONEY FOR LEGAL COSTS

Objective: To ensure the law practice is complying with the procedures in regard to the withdrawal of money from a general trust account or controlled money account for legal costs.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
42(3)	<p>The law practice may withdraw the trust money if the law practice has given the person a bill relating to the money and referring to the proposed withdrawal, and:</p> <p>(a) if the person does not, at the end of the period of 7 business days after the person was given the bill, object to the amount specified in the bill, or</p> <p>(b) if the person objects to the amount specified in the bill within the period of 7 business days after being given the bill but has not referred the matter to the designated local regulatory authority or for costs assessment, and the period of 30 days after the later of the following has expired:</p>		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	<p>(i) the date on which the person was given the bill,</p> <p>(ii) the date on which the person received an itemised bill following a request made in accordance with Section 187 of the Uniform Law, or</p> <p>if the money otherwise becomes legally payable.</p>		
42(4)	<p>The law practice may withdraw the trust money (whether or not the law practice has given the person a bill relating to the money):</p> <p>(a) if the money is withdrawn in accordance with instructions that have been received by the law practice and that authorise the withdrawal, and</p> <p>(b) if, before effecting the withdrawal, the law practice gives or sends to the person:</p> <p>(i) a request for payment, referring to the proposed withdrawal, or</p> <p>(ii) a written notice of withdrawal.</p> <p>Note: In relation to the instructions (See Rule 42(7)):</p> <p>(7) In relation to subrule (4)</p> <p>(a) If the authorisation referred to in subrule (4) (a) authorises the withdrawal of part of the money:</p> <p>(i). the law practice may withdraw the money to extent only, and</p> <p>(ii). if the person has given the person a bill relating to the money as referred to in subrule (3) (a) – subrule (3) (b) (i) and (ii) are taken to apply to the remaining part of the amount specified in the bill, and</p> <p>(b) instructions referred to in subrule (4) -</p> <p>(i). if given in writing, must be kept as a permanent record, or</p> <p>(ii). if not given in writing, must be confirmed in writing either before, or not later than 5 working days after, the law practice effects the withdrawal, and a copy must be kept as a permanent record.</p>		
42(5)	The law practice may withdraw the trust money:		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	<p>(a). if the money is owed to the law practice by way of reimbursement of money already paid by the law practice on behalf of the person, and</p> <p>(b). if, before effecting the withdrawal, the law practice gives or sends to the person:</p> <p>(i). a request for payment, referring to the proposed withdrawal, or</p> <p>(ii). a written notice of withdrawal.</p> <p>Note: Money is taken to have been paid by the law practice on behalf of the person when the relevant account of the law practice has been debited. (See Rule 42(8)).</p>		
42(6)	<p>The law practice may withdraw the trust money, if the law practice has given the person who is a commercial or government client a bill specifying the amount payable by the person for legal costs, so long as:</p> <p>(a). the money is withdrawn in accordance with a costs agreement between the law practice and the person, and</p> <p>(b). the costs agreement complies with the legislation under which it is made and authorises the withdrawal, and</p> <p>(c). before effecting the withdrawal, the law practice gives or sends to the person a request for payment, referring to the proposed withdrawal.</p>		
42	Have withdrawals of legal costs from the general trust account or controlled money account been in accordance with Rules 42(3), 42(4), 42(5) or 42(6)?		

AUTHORISED SIGNATORIES

Objective: To ensure that only authorised persons sign trust cheques, sign controlled money withdrawals or effect electronic funds transfers from the general trust account or controlled money account.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
43(2)	Have the appropriate authorising person/s effected the payments from the general trust account and controlled money accounts? been authorised to sign trust account cheques, sign controlled money withdrawals and effect		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	<p>electronic funds transfers from the general trust account/s or controlled money account/s?</p> <p>Note:</p> <p>For withdrawals from a general trust account, authorised persons pursuant to Rule 43(2) are:</p> <p>(a) an authorised principal of the law practice, or</p> <p>(b) if such a principal is not available:</p> <p>(i) an authorised legal practitioner associate; or</p> <p>(ii) an authorised Australian legal practitioner who holds an Australian practicing certificate authorising the receipt of trust money; or</p> <p>(iii) two or more authorised associates jointly.</p> <p>For withdrawals from a controlled money account, authorised persons pursuant to Rule 63(2) are:</p> <p>(a) an authorised principal of the law practice; or</p> <p>(b) if such a principal is not available:</p> <p>(i). a legal practitioner associate authorised by the law practice to effect, direct or give authority for this purpose; or</p> <p>(ii). when an authorised practitioner referred to in subparagraph (i) is not available - an Australian legal practitioner who holds an Australian practising certificate authorising the receipt of trust money and who is authorised by the law practice to effect, direct or give authority for this purpose; or</p> <p>(iii). when the authorised practitioners referred to in subparagraph (i) or (ii) are both not available - two or more associates of the law practice jointly who are authorised by the law practice to effect, direct or give authority for this purpose.</p>		
43(2)	Were the authorised persons as prescribed by Rule 43(2) for the general trust account?		
63(2)	Were the authorised persons as prescribed by Rule 63(2) for the controlled money account/s?		
	Has the law practice listed the authorised signatories to the general trust account in paragraph 5 of the Statement of Trust Money - Law Practice - Part B?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
50(2)	Did the law practice notify the Law Society's Trust Accounts Department in the month of July last year of the authorised signatories to the general trust account as at 1 July last year, if at that date, the signatories to the general trust account had changed from that reported in the previous year's Statement of Trust Money - Law Practice - Part B?		

GENERAL TRUST ACCOUNT

Objective: To ensure that a law practice which receives money that is required to be deposited into a general trust account maintains a general trust account in this jurisdiction, and that the general trust account is established and maintained in accordance with the Rules.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Has general trust money been received, held or disbursed during the applicable period?		
S147(1) & (2)	Have all trust records that have been requested been supplied for review?		
35(1)(a)	Is the general trust account established with an authorised ADI in this jurisdiction?		
	For general trust accounts opened on or after 1 October 2005:		
35(1)(b)-1	does the name of the account include the name of the law practice or the business name under which the law practice engages in legal practice?		
35(1)(b)-2	does the name of the account include the expression "law practice trust account" practice trust a/c"?		
	Has the law practice notified the Law Society of New South Wales within 14 days of the:		
50(1)	opening of a general trust account?		
50(3)	closing of a general trust account?		

TRUST ACCOUNT RECEIPTS

Objective: To ensure that a general trust account receipt is issued promptly in respect of general trust money received and the receipt records sufficient information to enable the receipt of the money to be properly recorded in the cash book and trust ledger account.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
36(1)	Are trust receipts made out for money that is required to be paid into a general trust account?		
	Are trust receipts made out as soon as practicable:		
36(1)(a)	after trust money is received? or		
36(1)(b)	in the case of trust money received by direct deposit, after the law practice receives or accesses notice or confirmation of the deposit from the authorised ADI?		
36(4)	Are trust receipts given, on request, to the person from whom the trust money was received?		
36(1)	For record keeping systems other than computerised accounting systems, are the trust receipts made out in duplicate?		
Are the receipts:			
36(5)-1	consecutively numbered?		
36(5)-2	issued in consecutive sequence?		
	Do the original and duplicate receipts include:		
36(2)(h)-1	the law practice name or the business name under which the law practice engages in legal practice? and		
36(2)(h)-2	the expression "Trust Account" or "Trust A/c"?		
Do the receipts include:			
36(2)(a)-1	the date the receipt is made out?		
36(2)(a)-2	if the date the receipt is made out is different, the date of the receipt of the money?		
36(2)(b)	the number of the receipt?		
36(2)(c)	the amount of money received?		
36(2)(d)	the form in which the money is received?		
36(2)(e)	the name of the person from whom the money is received?		
36(2)(f)-1	the name of the client?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
36(2)(f)-2	the matter description?		
36(2)(f)-3	the matter reference?		
36(2)(g)	the reason for which the money was received?		
36(2)(i)	the name of the person who made out the receipt?		
36(6)	Does the law practice retain the original of any cancelled receipt?		

DEPOSITS

Objective: To confirm that each deposit record is made out in duplicate, that completed deposit records are securely retained and the general trust money received has been promptly deposited.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S137	Is trust money deposited to the general trust account as soon as practicable after it is received?		
37(1)	Is a deposit record produced to the authorised ADI at the time of making the deposit? Note: An authorised ADI deposit record is not required in the case of money paid into a general trust account by direct deposit.		
Do deposit records include particulars of the following:			
37(2)(a)	the date of the deposit?		
37(2)(b)	the amount of the deposit?		
37(2)(c)	whether the deposit consists of cheques or cash (and the amount of each)?		
	for each cheque received:		
37(2)(d)(i)	the name of the drawer?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
37(2)(d)(ii)-1	the name of the ADI? and		
37(2)(d)(ii)-2	the branch or BSB number?		
37(2)(d)(iii)	the amount of the cheque?		
37(3)	Is the deposit record made out in duplicate?		
37(4)	Is the duplicate deposit record retained?		

TRUST ACCOUNT PAYMENTS

Objective: To ensure that sufficient information has been recorded on the relevant cheque butt, or cheque requisition, or other initiating disbursement document to enable details of disbursements to be properly recorded in the trust account payments cash book and trust ledger account.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S144(1)	Have all funds withdrawn from the general trust account been by way of trust cheque or electronic funds transfer?		
Do trust cheques include:			
43(1)(a)	a direction to pay to the order of a specified person or persons and not to bearer or cash?		
43(1)(b)	a “not negotiable” crossing?		
43(1)(c)(i)	the law practice name or the business name under which the law practice engages in legal practice?		
43(1)(c)(ii)	the expression “law practice trust account” or “law practice trust a/c”? (only applicable to accounts opened after 1 October 2005)		
43(3)	Is a written record of the payment by cheque or electronic funds transfer retained by the law practice? Note: A written record must be kept of each payment made by cheque or electronic funds transfer, unless those particulars are recorded by a computerised accounting system in the trust account payments cash book at the time the cheque is issued or the transfer is effected, and must be kept in a way that is sufficient to enable the		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	accuracy of the particulars recorded by the computerised accounting system to be verified.		
	Do the written records for payments by cheque or electronic funds transfer include:		
43(4)(a)-1	the date of issue of the cheque or electronic funds transfer?		
43(4)(a)-2	the number of the cheque or electronic funds transfer?		
43(4)(b)	the amount of the cheque or electronic funds transfer?		
43(4)(e)-1	details clearly identifying the name of the person on whose behalf the payment was made? and		
43(4)(e)-2	the matter reference?		
43(4)(e)-3	in the case of a payment to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment?		
43(4)(f)	details identifying the ledger account to be debited?		
43(4)(g)	the reason for the payment?		
	in the case of a cheque made payable to an ADI:		
43(4)(c)-1	the name of the ADI or BSB number?		
43(4)(c)-2	the name of the person receiving the benefit of the payment?		
	in the case of a payment by electronic funds transfer:		
43(4)(d)-1	the name of the account to which the amount was transferred?		
43(4)(d)-2	the number and BSB number of the account to which the amount was transferred?		
43(5)	Are written records relating to payments by cheque and electronic funds transfer kept in the order in which the cheques or transfers were issued or effected?		

TRUST ACCOUNT RECEIPTS AND PAYMENTS CASH BOOK

Objective: To ensure that the trust account receipts and payments cash books have been properly kept.

TRUST ACCOUNT RECEIPTS AND PAYMENTS CASH BOOK GENERAL

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
48(2)-1	Has the trust account receipts cash book been totalled for each month?		
48(2)-2	Has the trust account payments cash book been totalled for each month?		
48(2)-3	Are the additions of the trust account receipts and payments cash books correct?		

TRUST ACCOUNT RECEIPTS CASH BOOK

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Are the following particulars recorded in the trust account receipts cash book for each receipt of trust money:		
44(1)(a)-1	the date a receipt was made out for the money? and,		
44(1)(a)-2	if the date a receipt was made out for the money is different, the date of receipt of the money?		
44(1)(b)	the receipt number?		
44(1)(c)	the amount of money received?		
44(1)(d)	the form in which the money was received?		
44(1)(e)	the name of the person from whom the money was received?		
44(1)(f)-1	the name of the client in respect of whom the money was received?		
44(1)(f)-2	the matter description?		
44(1)(f)-3	the matter reference?		
44(1)(g)	particulars sufficient to identify the reason for the receipt?		
44(1)(h)	details identifying the ledger account to be credited?		
44(2)-1	the date of each deposit?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
44(2)-2	the amount of each deposit?		
	Are receipts recorded in the trust account receipts cash book:		
44(3)-1	in the order in which they are made out?		
44(3)-2	within 5 working days of the receipt being made out?		

TRUST ACCOUNT PAYMENT CASH BOOK

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Are the following particulars recorded in the trust account payments cash book for each payment of trust money by cheque or electronic funds transfer:		
45(1)(a)-1	the date of the cheque or electronic funds transfer?		
45(1)(a)-2	the number of the cheque or electronic funds transfer?		
45(1)(b)	the amount ordered to be paid or transferred?		
	in the case of a cheque:		
45(1)(c)-1	the name of the person to whom the payment is to be made? or		
45(1)(c)-2	in the case of a cheque made payable to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment?		
	in the case of an electronic funds transfer:		
45(1)(d)(i)	the name and number of the account to which the amount was transferred and the relevant BSB number?		
45(1)(d)(ii)-1	the name of the person to whom the payment was made? or		

45(1)(d)(ii)-2	in the case of a payment to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment?		
	in the case of a payment by cheque or electronic funds transfer:		
45(1)(e)-1	the name of the person on whose behalf the payment was made?		
45(1)(e)-2	the matter description?		
45(1)(e)-3	the appropriate ledger reference?		
45(1)(f)	particulars sufficient to identify the reason for the payment?		
45(2)(a)	Are payments by cheque or electronic funds transfer recorded in the order in which they are made?		
45(2)(b)	Are particulars of each payment recorded in the trust account payments cash book within 5 working days of the day the payment was made?		

RECONCILIATION OF GENERAL TRUST ACCOUNT

Objective: To ensure that the records of each general trust account are reconciled within 15 working days of the end of each month and that errors and deficiencies are identified.

TRUST AUTHORISED ADI RECONCILIATION STATEMENTS

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
48(2)(a)	Have trust authorised ADI reconciliation statements been prepared relating to each general trust account as at the end of each named month?		
48(2)(a)(i)	Do the reconciliation statements reconcile with the balance of the practice's trust cash book as at the end of each month?		
48(2)(a)(ii)	Is the date that each reconciliation statement was prepared shown?		
48(2)-1	Do the reconciliation statements disclose the month-end to which each relates?		
48(3)	Are the reconciliation statements prepared within 15 working days after the end of each month?		
48(4)-1	Are the reconciliation statements retained?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
48(4)-2	Does the authorised ADI statement balance as at the end of each named month agree with the authorised ADI statement balance shown on the reconciliation statement?		
48(4)-3	Are the additions of the reconciliation statements correct?		
48(4)-4	Have all outstanding deposits been reviewed?		
48(4)-5	Have all outstanding deposits been promptly deposited?		
48(4)-6	Have all debit and credit adjusting items been reviewed?		
	Was the general trust account closed prior to 31 March?		
48(4)-7	Has the date of closure been confirmed with the authorised ADI?		
	For the authorised ADI reconciliation as at 31 March:		
48(4)-8	Does the reconciliation statement reconcile with the balance of the practice's trust cash book?		
48(4)-9	Has the reconciliation statement been prepared within 15 working days after 31 March?		
48(4)-10	Does the authorised ADI statement balance as at 31 March agree with the authorised ADI statement balance shown on the reconciliation statement?		
48(4)-11	Are there any stale cheques (over 15 months old) recorded in the 31 March unrepresented cheques listing?		
48(4)-12	Are the additions on the reconciliation statement correct?		
48(4)-13	Have all reconciling items, including outstanding deposits and debit and credit adjusting items, been reviewed?		
48(4)-14	Does the information included in the reconciliation statement match the information as at 31 March that is shown in paragraph 1 of the Statement of Trust Money - Law Practice - Part B?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
48(4)-15	Has the authorised ADI balance as at 31 March been confirmed with the authorised ADI?		

TRUST TRIAL BALANCE STATEMENTS

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Note: The Law Society of New South Wales advises that trust ledger accounts with a zero balance at the end of the relevant month do not have to be included in the trust trial balance statement.		
48(2)(b)(ii)-1	Have trust trial balance statements been prepared as at the end of each named month?		
	Do the trust trial balance statements disclose:		
48(2)(b)	the month to which they refer?		
48(2)(b)(iii)	the date of preparation?		
48(2)(b)(ii)-2	the ledger account name?		
48(2)(b)(ii)-3	the reference number or identification?		
48(2)(b)(ii)-4	the balance of each trust ledger account at month end?		
48(2)(b)(ii)-5	a short description of the matter?		
48(2)(b)(i)-1	the total of all trust ledger account balances at month end?		
48(2)(b)(i)-2	the comparison between the total of the trial balance statement and the reconciled cash book balance as at the same date?		
48(3)-2	Is the date of preparation within 15 working days of the end of the month to which the trial balance statement relates?		
48(4)-1	Are trial balance statements retained?		
48(2)(b)(i)-3	Have any variances in respect of item 6B.2.8 (between the total of the trial balance statement and the trust cash book balance) been satisfactorily noted, explained and subsequently adjusted?		
	For the trust trial balance statement as at 31 March:		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
48(4)-2	Is the date of preparation within 15 working days of 31 March?		
48(4)-3	Are the additions on the trial balance statement correct?		
48(4)-4	Does the comparison between the total of the trial balance statement and the reconciled cash book balance agree and, if not, has any variance been satisfactorily noted and subsequently adjusted?		
S147(2)	Have satisfactory explanations been provided for any dormant balances listed? (Note: If satisfactory explanations have not been received, please ensure the comments are recorded in paragraph 6 of the Opinion Section of the External Examiner's Report).		
48(4)-6	Does the information included in the trial balance statement as at 31 March match the information shown in the box titled "Trial Balance as at 31 March 20xx" in paragraph 1 of the Statement of Trust Money - Law Practice - Part B?		
48(4)-7	Does the recorded Statutory Deposit ledger balance as at 31 March agree with documents provided by the authorised ADI record and/or has the Statutory Deposit balance been confirmed with the authorised ADI?		
S148-1	Are there any debit balances listed and, if so, have those debit balances as at 31 March since been cleared?		
S148-2	Were any debit balances or deficiencies identified from a review of the month end trust trial balance statements over the applicable period? If so:		
S148-3	Did the law practice answer "Yes" to the Trust Ledger Account Deficiency Report question in paragraph 1 of the Statement of Trust Money - Law Practice - Part B?		
S148-4	Have all debit balances or deficiencies (excluding any Statutory Deposit account) listed in any of the month end trust trial balance statements been rectified as soon as practicable after the time when the debit balance or deficiency should have become apparent? (Note: Please provide the details of each matter that was not restored promptly in paragraph 5 of the Opinion Section of the External Examiner's Report)		
S148-5	Did the law practice take the appropriate action in rectifying the debit balances or deficiencies? (Note: Please provide the details of each matter in which the appropriate		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	action was not taken by the law practice in paragraph 5 of the Opinion Section of the External Examiner's Report)		
S154(1)	Did the law practice report each debit balance or deficiency to the Law Society's Trust Accounts Department in writing as soon as practicable after it became aware of the irregularity? (If so, please review the correspondence, including the written response from the Trust Accounts Department)		

TRUST JOURNAL

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

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
46(2)	Has the law practice completed any transfers that are required to be recorded by journal transfer?		
46(1)(a)	Have the journal transfers been authorised in writing by an authorised principal of the law practice?		
	If the authorised principal was not available, was the journal transfer authorised by:		
46(1)(a)(i)	an authorised legal practitioner associate of the law practice? or		
46(1)(a)(ii)	an authorised Australian legal practitioner who holds an Australian practising certificate authorising the receipt of trust money? or		
46(1)(a)(iii)	two or more authorised associates jointly? or		
46(1)(b)	in writing by an external intervener for the law practice?		
	Are the following particulars recorded in the trust account transfer journal for each journal transfer:		
46(3)(a)	the date of the transfer?		
46(3)(b)	the trust ledger account from which the money is transferred? including:		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
46(3)(b)-1	the appropriate ledger reference? and		
46(3)(b)-2	the name of the person on whose behalf the transfer was made? and		
46(3)(b)-3	the matter description?		
46(3)(c)	the trust ledger account to which the money is transferred? including:		
46(3)(c)-1	the appropriate ledger reference? and		
46(3)(c)-2	the name of the person on whose behalf the transfer was made? and		
46(3)(c)-3	the matter description?		
46(3)(d)	the amount transferred?		
46(3)(e)	the reason for the transfer?		
46(4)	Are journal pages or entries consecutively numbered?		
46(5)	Are particulars of the authorisation for each transfer kept?		

TRUST LEDGER ACCOUNTS

Objective: To ensure that the trust ledger accounts have been properly kept and details of money received, disbursed and transferred are recorded in a trust ledger account kept for each matter for each person on whose behalf money is held.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
47(1)	Is a separate ledger account opened for each matter for which trust money has been received by the law practice?		
	Does each ledger account include in the title:		
47(2)(a)	the name of the person for or on behalf of whom the trust money was paid?		
47(2)(b)	the person's address?		
47(2)(c)	particulars sufficient to identify the matter in relation to which the trust money was received?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
47(2)	Are details of any changes to the title of a trust ledger account recorded?		
	Are the following particulars recorded in the trust ledger account for receipts, payments or journal transfers:		
47(3)(a)	the date of the transaction (i.e. the receipt, payment or journal transfer)?		
47(3)(b)	the appropriate reference number and transaction type?		
	Are the following particulars recorded in the trust ledger account if the transaction is a receipt:		
47(3)(e)(i)-1	the provider of the money?		
47(3)(e)(i)-2	if the date of the receipt is different from the date the amount was received, both dates?		
	Are the following particulars recorded in the trust ledger account if the transaction is a payment by cheque:		
47(3)(e)(ii)-1	the payee? or		
	in the case of a cheque made payable to an ADI:		
47(3)(e)(ii)-2	the name of the person receiving the benefit of the payment?		
	Are the following particulars recorded in the trust ledger account if the transaction is a payment by electronic funds transfer:		
47(3)(e)(iv)-1	the appropriate ledger reference? and		
47(3)(e)(iv)-2	the name of the person on whose behalf the transfer was made? and		
47(3)(e)(iv)-3	the matter description?		
	Are transactions recorded in the trust ledger account:		
47(4)(a)	in the order in which the transactions occur?		
47(4)(b)	within 5 working days of the day the receipt was made out, the payment was made, or the transfer was effected?		
47(5)	Is a ledger balance shown after each receipt, payment or transfer of trust money?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	In respect of any debit balances or deficiencies identified from the review of the trust ledger accounts		
S148-1	Have all debit balances or deficiencies shown in the trust ledger accounts been rectified as soon as practicable after the time when the debit balance or deficiency should have become apparent? (Note: Please provide the details of each matter that was not restored promptly in paragraph 5 of the Opinion Section of the External Examiner's Report)		
S148-2	Did the law practice take the appropriate action in rectifying the debit balances or deficiencies? (Note: Please provide the details of each matter in which the appropriate action was not taken by the law practice in paragraph 5 of the Opinion Section of the External Examiner's Report)		
S154(1)	Did the law practice report each debit balance or deficiency to the Law Society's Trust Account Department in writing as soon as practicable after it became aware of the irregularity? (If so, please review the correspondence, including the written response from the Trust Accounts Department)		
S147(2)(a)	Have satisfactory explanations been provided for any dormant balances? (Note: If satisfactory explanations have not been received, please ensure the comments are recorded in paragraph 6 of the Opinion Section of the External Examiner's Report).		
S147(2)	Have source records been sighted to confirm the accuracy of records in the trust account receipts and payments cash book and the trust ledger accounts?		
S138(1) & (2)	Were payments from trust ledger accounts in accordance with the direction of the person on whose behalf the money was held unless subject to an order of a court of competent jurisdiction or as authorised by law?		
S148-1	Was the authorised ADI account balance overdrawn during the applicable period without reasonable excuse? If so:		
S154-1	Was it reported in writing to the Law Society's Trust Accounts Department?		

TRUST LEDGER ACCOUNT IN NAME OF LAW PRACTICE OR LEGAL PRACTITIONER ASSOCIATE

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Does the law practice maintain a trust ledger account in the name of:		
49(1)-1	the law practice, or		
49(1)-2	an associate of the law practice?		
	Is the use of the trust ledger account restricted to:		
49(2)(a)	a trust ledger account in the law practice’s name but only for the purpose of aggregating in the account, by transfer from other accounts in the trust ledger, money properly due for legal costs (i.e. a “clearing account”)?		
49(2)(b)	a trust ledger account in a legal practitioner associate’s name in respect of which the associate has a personal and beneficial interest as a vendor, purchaser, lessor, lessee or in another similar capacity?		
49(3)	If a “clearing account” is used, have the funds been withdrawn within 1 month of being transferred to the trust ledger account?		
49(4)	If there is a trust ledger account where a legal practitioner associate had a personal and beneficial interest as a vendor, purchaser, lessor, lessee or in another similar capacity, have the funds been withdrawn from the trust account if the matter has concluded?		
49(2)(a) & (b)	Were there any other trust ledger accounts noted that need further review for which satisfactory explanation has not been received (such as ledger accounts headed suspense, miscellaneous or in the name of the law practice)? (If so, please review the trust ledger account and the transactions)		

CONTROLLED MONEY

Objective: To ensure a law practice that receives controlled money deposits the money in a controlled money account as directed.

"Controlled money" means money received or held by a law practice in respect of which the law practice has a written direction to deposit the money in an account (other than a general trust account) over which the practice has or will have exclusive control. (S128(1) of the Uniform Law)

“Controlled money account” means an account maintained by a law practice with an ADI for the holding of controlled money received by the law practice. (S128(1) of the Uniform Law)

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S129(1)(b)	Has Controlled Money been received, held or disbursed during the applicable period?		
	Does the name of the controlled money account include:		
61(a)	the name of the law practice concerned?		
61(b)	the expression "controlled money account" or the abbreviation "CMA" or "CMA/c"?		
61(c)	such particulars as are sufficient to identify:		
61(c)-1	the purpose of the account? And		
61(c)-2	to distinguish the account from any other account maintained by the law practice?		
S139(1)	Have (external) written directions been obtained to open the controlled money accounts?		

CONTROLLED MONEY RECEIPT

Objective: To ensure that a controlled money account receipt is issued promptly in respect of all controlled money received and the required particulars are properly recorded.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
62(1)	Does the law practice maintain a single controlled money receipt system for the receipt of controlled money for all its controlled money accounts?		
62(2)	Is a controlled money receipt made out as soon as possible for the receipt of controlled money (excluding interest received into the controlled money account – see Rule 62(8))?		
62(3)	Does the law practice give the person from whom the controlled money was received a copy of the receipt upon request?		
62(4)	Are the controlled money receipts in duplicate?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Note: The receipt must be made out in duplicate, unless at the time the receipt is made out those particulars are recorded by a computerised accounting system in the register of controlled money.		
	Do the receipts include:		
62(4)(h)-1	the name of the law practice, or the business name under which the law practice engages in legal practice? And		
62(4)(h)-2	the expression "controlled money receipt"?		
	Do the receipts include the following particulars:		
62(4)(a)-1	the date the receipt is made out? and		
62(4)(a)-2	if the date the receipt is made out is different, the date of receipt of the money?		
62(4)(b)	the amount of money received?		
62(4)(c)	the form in which the money was received?		
62(4)(d)	the name of the person from whom the money was received?		
62(4)(e)-1	details clearly identifying the name of the person on whose behalf the money was received?		
62(4)(e)-2	the matter description?		
62(4)(e)-3	the matter reference?		
62(4)(f)	particulars sufficient to identify the reason for the receipt?		
62(4)(g)	the name of and other details identifying the controlled money account to be credited?		
62(4)(i)	the number of the receipt?		
62(5)	If the controlled money account to be credited has not been established by the time the receipt is made out, does the duplicate receipt include the name of, and other details clearly identifying, the account when established?		
	Are controlled money receipts:		
62(6)(a)-1	consecutively numbered? and		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
62(6)(a)-2	issued in consecutive sequence?		
62(7)	Is the original of any receipt that is cancelled or not delivered kept by the law practice?		

CONTROLLED MONEY WITHDRAWAL

Objective: To ensure that all withdrawals of controlled money are carried out in accordance with the Rules and that a written record disclosing the required particulars is kept for each withdrawal of controlled money.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Are all controlled money withdrawals made by either:		
63(1)-1	cheque? or		
63(1)-2	electronic funds transfer?		
	Are all controlled money withdrawals effected by, under the direction of or with the authority of:		
63(2)(a)	an authorised principal of the law practice? or		
63(2)(b)	if such a principal is not available:		
63(2)(b)(i)	a legal practitioner associate authorised by the law practice to effect, direct or give authority for this purpose? or		
63(2)(b)(ii)	when an authorised practitioner referred to in subparagraph (i) is not available - an Australian legal practitioner who holds an Australian practising certificate authorising the receipt of trust money and who is authorised by the law practice to effect, direct or give authority for this purpose? or		
63(2)(b)(iii)	when the authorised practitioners referred to in subparagraph (i) or (ii) are both not available - two or more associates of the law practice jointly who are authorised by the law practice to effect, direct or give authority for this purpose?		
63(3) & (4)	Is a written record kept of each withdrawal? Note: If, at the time the withdrawal is made, the required particulars are recorded by a computerised accounting system, a written record must be kept that is sufficient to		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	enable the accuracy of the particulars recorded by the computerised accounting system to be verified.		
63(5)	Does the written record contain the following particulars:		
63(5)(a)-1	the date?		
63(5)(a)-2	the number of the transaction?		
63(5)(b)	the amount withdrawn?		
	in the case of a withdrawal made by cheque:		
63(5)(c)-1	the name of the person to whom payment is to be made? or		
63(5)(c)-2	if the cheque is made payable to an ADI:		
63(5)(c)-3	the name or BSB number of the ADI?		
	in the case of a withdrawal made by electronic funds transfer:		
63(5)(d)-1	the account name? and		
63(5)(d)-2	the account number of the account to which the amount was transferred? and		
63(5)(d)-3	the relevant BSB number?		
	details clearly identifying:		
63(5)(e)-1	the name of the person on whose behalf the payment was made? and		
63(5)(e)-2	the matter reference?		
63(5)(f)	the reason for which the payment was made?		
63(5)(g)	the person or persons effecting, directing or authorising the withdrawal?		
63(6)	Are the written records filed in the order in which the withdrawals are recorded?		
63(5)	Are the written records recorded separately for each controlled money account?		

REGISTER OF CONTROLLED MONEY

Objective: To ensure that all records relating to controlled money accounts are properly kept in the controlled money register

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Do the transactions in the controlled money movements record disclose:		
64(4)(a)	the date the controlled money was received?		
64(4)(b)	the number of the receipt?		
64(4)(c)	the date the money was deposited in the controlled money account?		
64(4)(d)	the name of and other details clearly identifying the controlled money account?		
64(4)(e)	the amount of controlled money deposited?		
64(4)(f)	details of the deposit sufficient to identify the deposit?		
64(4)(g)	interest received?		
64(4)(h)	details of any payments from the controlled money account, including the particulars required to be recorded under Rule 63(5)?		
64(5)	details of any payments from the controlled money account, including the particulars required to be recorded under Rule 63(5)?		
64(5)	Are particulars of receipts and payments entered into the register as soon as practicable after the controlled money is received by the law practice or any payment is made?		
64(6)	Is the interest and other income received in respect of controlled money entered in the register as soon as practicable after the law practice is notified of its receipt?		
64(7)	Does the law practice retain all supporting information (including ADI statements and notifications of interest received) relating to controlled money?		
	Subject to a court order or as authorised by law, did the law practice:		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S139(3)(a)	obtain an (external) written direction relating to the disbursement of the controlled money; or		
S139(3)(b)	Were disbursements from the controlled money account made in accordance with the (external) written directions?		
S139(1) to (5) & S147(2)	Have source records been sighted to confirm the accuracy of the records in any controlled money accounts (including the statements provided by the ADI)?		

CONTROLLED MONEY LISTING OF ACCOUNTS

Objective: To ensure that listings of controlled money are prepared within 15 working days of each month end for the period under review.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
64(8)-1	Have controlled money listings of accounts been prepared for each month?		
64(8)(b)	Do the controlled money lists show a date of preparation?		
64(8)-2	Have they been prepared within 15 working days of month end?		
	Do the controlled money listings contain:		
64(8)(a)(i)-1	the name of each controlled money account in the register?		
64(8)(a)(i)-2	the number of the controlled money account in the register?		
64(8)(a)(i)-3	the balance of each controlled money account in the register?		
64(8)(a)(ii)	the name of the person on whose behalf each controlled money account is/was held?		
64(8)(a)(iii)	a short description of the matter to which each controlled money account relates?		
S148-1	Were there any debit balances or deficiencies identified from a review of the controlled money records over the applicable period? If so:		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S148-2	Did the law practice answer “Yes” to the Controlled Money Deficiency report question in paragraph 2 of the Statement of Trust Money - Law Practice - Part B?		
S148-3	Have all controlled money account debit balances or deficiencies been rectified as soon as practicable after the time when the debit balance or deficiency should have become apparent? (Note: Please provide the details of each matter that was not restored promptly in paragraph 5 of the Opinion Section of the External Examiner’s Report)		
S148-4	Did the law practice take the appropriate action in rectifying the controlled money account debit balances or deficiencies? (Note: Please provide the details of each matter in which the appropriate action was not taken by the law practice in paragraph 5 of the Opinion Section of the External Examiner’s Report)		
S154(1)	Did the law practice report each controlled money account debit balance or deficiency to the Law Society’s Trust Account Department in writing as soon as practicable after it became aware of the irregularity? (If so, please review the correspondence, including the written response from the Trust Accounts Department)		

TRANSIT MONEY

Objective: To ascertain if the law practice has received transit money and has retained the appropriate records.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S129(1)(c)	Has the law practice received transit money during the applicable period? Note 1: If transit money is received in cash, it must be deposited to the general trust account in accordance with Section 143(1). Once deposited, it may be dealt with in accordance with the written direction. Note 2: Where transit money is received by cheque, a photocopy of the cheque should be made and the required details including the purposes for the receipt be appended to it. The record should be retained in the matter file.		
S140(1)-1	Did the law practice pay or deliver the transit money:		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S140(1)-2	as required by the instructions related to the money within the period (if any) specified in the instructions?		
S140(1)-3	or else as soon as practicable after it is received?		
S140(2)-1	Does the law practice record and keep details of transit money?		
	Do the records include:		
S140(2)-2	brief particulars sufficient to identify the relevant transaction?		
S140(2)-3	the purpose for which the money was received?		

TRUST MONEY SUBJECT TO SPECIFIC POWER

Objective: To ascertain if the law practice has been given a power to deal with trust money (whether alone or jointly with another person) and has accounted for the money and kept appropriate records of all dealings (excluding power money pursuant to an electronic lodgement network operator's settlement scheme (such as PEXA)).

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S129(1)(d)	Has the law practice or an associate of the law practice been given a power to deal with trust money (whether alone or jointly with another person) during the applicable period?		
S141(1)	Has the law practice dealt with the trust money (other than cash) that is the subject of a power only in accordance with that power? Note: If power money is received in cash, it must be deposited to the general trust account in accordance with Section 143(1), before being dealt with in accordance with the power.		
S141(2)	Does the law practice keep:		
55(2)(a)	a record of all dealings with the money to which the practice or associate is a party?		
55(2)(b)	all supporting information in relation to the dealings?		
S148-1	Were there any deficiencies identified from a review of the records kept for trust money subject to specific		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	power, including any indication that the trust money was not dealt with only in accordance with the power? If so:		
S148 -2	Was each deficiency restored promptly?		
S148 -3	Did the law practice provide a satisfactory explanation for each deficiency?		
S154(1)	Did the law practice report each deficiency to the Law Society's Trust Account Department in writing as soon as practicable after it became aware of the irregularity? (If so, please review the correspondence, including the written response from the Trust Accounts Department)		

TRUST MONEY SUBJECT TO WRITTEN DIRECTION

Objective: To ascertain whether or not the law practice has received a written direction to deal with trust money (other than cash) in a particular way.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S137(a)	Has the law practice received a written direction to deal with trust money (other than cash) in a particular way? Note: If the written direction money is received in cash, it must be deposited to the general trust account in accordance with Section 143(1). Once deposited, it may be dealt with in accordance with the written direction.		
	Has the law practice complied with that direction:		
S142(1)-1	within the period specified in the direction? or		
S142(1)-2	otherwise, as soon as practicable after it is received?		
S142(2)	Has the law practice kept the written direction?		

REGISTER OF POWERS AND ESTATES

Objective: To ascertain if the law practice or an associate of the law practice has maintained the appropriate records, that is a Register of Powers & Estates, because it has acted or is entitled to act, alone or jointly with the law practice or one or more associates of the practice, in relation to trust money.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
60(1)-1	Has the law practice or an associate of the law practice: acted, or is entitled to act alone or jointly with the law practice or one or more associates of the practice, in relation to trust money? Note: The requirement to make an entry in the register of powers and estates does not apply where the law practice or an associate is also required to act jointly with one or more persons who are not associates of the law practice (see Rule 60(2)). (Review of the questions in Division 5 of this Checklist may assist in the completion of this Division)		
60(1)-2	Does the law practice keep a Register of Powers and Estates?		
60(3)	Does the register record particulars sufficient to identify each power in respect of which the law practice or an associate of the law practice is acting or entitled to act (alone or jointly with the law practice or one or more associates of the law practice)? including:		
60(3)(a)-1	the name of the donor? and		
60(3)(a)-2	the address of the donor? and		
60(3)(a)-3	the date of each power?		
60(3)(b)-1	Does the register record particulars sufficient to identify each estate in respect of which the law practice or an associate of the law practice is acting or entitled to act (alone or jointly with the law practice or one or more associates of the law practice) as the executor or administrator? Including:		
60(3)(b)-2	the name of the deceased? and		
60(3)(b)-3	the date of death of the deceased?		

INVESTMENT OF TRUST MONEY

Objective: To ascertain if the law practice has received instructions to invest trust money on behalf of clients.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
129(2)(d)	<p>Has the law practice invested trust money referred to in Section 129(2)(d)?</p> <p>Note 1: Section 129(2) provides that the following money is not trust money for the purposes of this Law – “(d) money received by a law practice for investment purposes unless—</p> <p>the law practice received the money in the ordinary course of legal practice and primarily in connection with the provision of legal services at the direction of the client; and</p> <p>the investment is or is to be made in the ordinary course of legal practice and for the ancillary purpose of maintaining or enhancing the value of the money or property.”</p>		

REGISTER OF INVESTMENTS

Objective: To ascertain if the law practice has received instructions to invest trust money for or on behalf of clients and has maintained the appropriate register of investments of trust money..

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Note: This Division is not required to be completed if the particulars to be recorded in the register of investments of trust money have been recorded elsewhere by the law practice as another form of trust money (for example, controlled money).		
59(1)	Does the law practice keep a register of investments?		
	Does the register record:		
59(1)(a)	the name in which the investment is held?		
59(1)(b)	the name of the person on whose behalf the investment is made?		
59(1)(c)	the person's address?		
59(1)(d)	particulars sufficient to identify the investment?		
59(1)(e)	the amount invested?		
59(1)(f)	the date the investment was made?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
59(1)(g)	particulars sufficient to identify the source of the investment? including, for example: a reference to the relevant trust ledger account (if applicable)? and a reference to the written authority to make the investment?		
59(1)(h)	details of any documents evidencing the investment?		
59(1)(i)	details of any interest received from the investment or credited directly to the investment?		
59(1)(j)	details of the repayment of the investment and any interest, on maturity or otherwise?		

MATTER FILES AND REGISTER

Objective: To ensure that the law practice is opening and maintaining matter files and maintaining appropriate registers.

OPENING AND MAINTAINING MATTERS FILES

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
91E(1)	Does the law practice open a file in respect of each matter for which the law practice receives instructions to provide legal services to a person?		
91E(1)	Does the law practice open a file in respect of each matter for which the law practice receives instructions to provide legal services to a person?		
91E(2)	Is the file opened as soon as practicable after the law practice receives the instructions?		
91E(3)	Does the file contain or have endorsed on it:		
91E(3)(a)	the particulars required by Rule 93(2)(a) to (d)? being:		
93(2)(a)	the full name and address of the person? and		
93(2)(b)	the date of receipt of the instructions? and		
93(2)(c)	a short description of the services which the law practice has agreed to provide? and		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
93(2)(d)	an identifier? and		
91E(3)(b)	the contact details used by the law practice to contact the person to whom it is providing the legal services?		

REGISTER OF FILES OPENED

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
93(1)	Does the law practice maintain a register of files opened, in respect of each matter for which the law practice receives instructions to provide legal services to a person?		
	Does the register of files opened record:		
93(2)(a)	the full name and address of the person? and		
93(2)(b)	the date of receipt of the instructions? and		
93(2)(c)	a short description of the services which the law practice has agreed to provide? and		
93(2)(d)	an identifier? and		
93(2)(e)	the location of any regulated property relating to the matter (as defined in Section 6 of the Uniform Law)? being:		
93(2)(e)-1	(a) trust money received, receivable or held by the law practice?		
93(2)(e)-2	(b) trust property received, receivable or held by the law practice?		
93(2)(e)-3	(c) interest, dividends or other income or anything else derived from or acquired with money or property referred to in (a) or (b) above?		
93(2)(e)-4	(d) any computer hardware or software, or other device, in the custody or control of a law practice or an associate of the law practice by which any documents or records referred to in paragraph (c) may be produced or reproduced in visible form?		
93(2)(e)-5	(e) client files?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
93(2A)	If, for the purposes of Subrule 93(2)(e), the regulated property is a document that is stored on a server and may be accessed from multiple locations, is the regulated property recorded as the law practice’s principal place of business?		
95A(1)	Is the register of files opened by the law practice:		
95A(1)(a)	in the English language? and		
95A(1)(b)	legible? and		
95A(1)(c)	kept in a single document or in any other manner that enables a single document to be compiled? and		
95A(1)(d)	kept at the premises of the law practice at all times? and		
95A(1)(e)	accessible at all times (whether in manual or electronic form) to an external intervener or an investigator carrying out a function described in Section 368 of the Uniform Law? and		
95A(1)(f)	kept up to date as provided by Subrule (2)?		
95A(2)	Is the entry in the register of information that is required to be recorded in the register of files opened:		
95A(2)(a)	for information known to the law practice at the time a file is opened for the matter - as soon as practicable after the file is opened? or		
95A(2)(b)	for information that becomes known to the law practice after the file is opened - as soon as practicable after the information becomes known?		
	<p>Note: In respect of Rule 95A(1)(e) referred to above, the functions described in Section 368 of the Uniform Law are:</p> <p>Trust records examinations;</p> <p>Trust records investigations;</p> <p>Compliance audits; and</p> <p>Complaint investigations</p>		

REGISTER OF SAFE CUSTODY DOCUMENTS

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
93(1)	Does the law practice maintain a register of files opened, in respect of each matter for which the law practice receives instructions to provide legal services to a person?		
	Does the register of files opened record:		
93(2)(a)	the full name and address of the person? and		
93(2)(b)	the date of receipt of the instructions? and		
93(2)(c)	a short description of the services which the law practice has agreed to provide? and		
93(2)(d)	an identifier? and		
93(2)(e)	the location of any regulated property relating to the matter (as defined in Section 6 of the Uniform Law)? being:		
93(2)(e)-1	(a) trust money received, receivable or held by the law practice?		
	Does the law practice hold safe custody documents for clients of the law practice?		
94(1)	Does the law practice maintain a register of safe custody documents, in respect of each will, deed, document or other valuable property for which the law practice receives instructions to hold the item in safe custody?		
	Does the register of safe custody documents disclose:		
94(2)(a)	the full name and address of the person who gave the instructions?		
94(2)(b)	a short description of the item?		
94(2)(c)	the date of receipt of the item by the law practice?		
94(2)(d)	the identifier of the safe custody packet in which the item is held by the law practice?		
95A(1)	Is the register of safe custody documents:		
95A(1)(a)	in the English language? and		
95A(1)(b)	legible? and		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
95A(1)(c)	kept in a single document or in any other manner that enables a single document to be compiled? and		
95A(1)(d)	kept at the premises of the law practice at all times? and		
95A(1)(e)	accessible at all times (whether in manual or electronic form) to an external intervener or an investigator carrying out a function described in Section 368 of the <i>Uniform Law</i> ? and		
95A(1)(f)	kept up to date as provided by Subrule (2)?		
95A(2)	Is the entry in the register of information that is required to be recorded in the register of safe custody documents:		
95A(2)(a)	for information known to the law practice at the time a file is opened for the matter - as soon as practicable after the file is opened? or		
95A(2)(b)	for information that becomes known to the law practice after the file is opened - as soon as practicable after the information becomes known?		

REGISTER OF FINANCIAL INTERESTS

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Has a legal practitioner associate had a financial interest in any company, partnership, or other entity (except for companies listed on the Australian Stock Exchange, and shelf companies (companies that have already been registered but have not traded) maintained for sale), and which engages in any dealing with trust money received by the associate or the law practice?		
95(1)	Does the law practice maintain a register of financial interests which includes:		
95(2)(a)	the full name and address of the associate? and		
95(2)(b)	the name and other identifying particulars of any company, partnership, or other entity, in which the associate has a financial interest?		
95A(1)	Is the register of financial interests:		
95A(1)(a)	in the English language? and		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
95A(1)(b)	legible? and		
95A(1)(c)	kept in a single document or in any other manner that enables a single document to be compiled? and		
95A(1)(d)	kept at the premises of the law practice at all times? and		
95A(1)(e)	accessible at all times (whether in manual or electronic form) to an external intervener or an investigator carrying out a function described in Section 368 of the <i>Uniform Law</i> ? and		
95A(1)(f)	kept up to date as provided by Subrule (2)?		
95A(2)	Is the entry in the register of information that is required to be recorded in the register of financial interests:		
95A(2)(a)	for information known to the law practice at the time a file is opened for the matter - as soon as practicable after the file is opened? or		
95A(2)(b)	for information that becomes known to the law practice after the file is opened - as soon as practicable after the information becomes known?		

MORTGAGE MONEY

Objective: To ensure that the law practice is not negotiating the making of or variation of a mortgage.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
129(2)(b)	Note: Section 129(2)(b) of the Uniform Law provides that money entrusted to or held by a law practice for or in connection with — a managed investment scheme; or mortgage financing; undertaken by the law practice is not trust money.		
258(4)	Note: Section 258(4) of the Uniform Law provides that the law practice is not prohibited from negotiating the making of or acting in respect of a mortgage: under which the lender is a financial institution, or		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	under which the lender or contributors nominate the borrower, but only if the borrower is not a person introduced to the lender or contributors by the law practice who acts for the lender or contributors, or by an associate of the law practice, or an agent of the law practice, or a person engaged by the law practice for the purpose of introducing the borrower to the lender or contributors.		
S258(4)	Is there evidence of the law practice negotiating the making of or acting in respect of a mortgage (including a variation of a mortgage)? If so:		
S258(4)(a)	Is the lender a financial institution? or		
S258(4)(b)-1	Is the borrower a person introduced to the lender or contributors by the law practice who acts for the lender or contributors? or by:		
S258(4)(b)-2	an associate of the law practice? or		
S258(4)(b)-3	an agent of the law practice? or		
S258(4)(b)-4	a person engaged by the law practice for the purpose of introducing the borrower to the lender or contributor?		

BORROWING FROM CLIENTS OR FORMER CLIENTS

Objective: To ensure that no solicitor or associate of the law practice has borrowed money from a client, or, in certain circumstances, from a former client.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Rule 12.3 of the Legal Profession Uniform Law Australian Solicitors Conduct Rules 2015 provides that a solicitor must not borrow money, nor assist an associate to borrow money from a client of the solicitor or of the solicitor's law practice or from a former client who has indicated a continuing reliance upon the advice of the solicitor or the law practice in relation to the investment of money unless the client is: an Authorised Deposit-taking Institution; a trustee company;		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	<p>the responsible entity of a managed investment scheme registered under Chapter 5C of the Corporations Act 2001 or a custodian for such a scheme;</p> <p>an associate of the solicitor and the solicitor is able to discharge the onus of proving that a full written disclosure was made to the client and that the client's interests are protected in the circumstances, whether by legal representation or otherwise;</p> <p>the employer of the solicitor.</p>		
12.3	Is there any evidence of a solicitor of the law practice or an associate borrowing money from a client, or from a former client who has indicated a continuing reliance upon the advice of the solicitor or the law practice in relation to the investment of money?		

STATUTORY DEPOSIT

Objective: To ensure the calculation for the statutory deposit has been completed by the law practice for each applicable period (in the year of review) and the required statutory deposit amount, as calculated by the law practice or determined on request by the Law Society of NSW Trust Accounts Department, has been deposited to the Statutory Deposit Account held by the practice's authorised ADI.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S137	Does the law practice currently maintain a general trust account?		
AA – S46 AR – Cl 9 & Cl 10(1) & (2)	<p>Did the law practice calculate the amount to be held on statutory deposit not later than 20 banking days after the end of each applicable period (being the 3 months ending on 30 June, 30 September, 31 December and 31 March)?</p> <p>Note: Legislation reference is the Legal Profession Uniform Law Application Act 2014 (“Application Act”) and the Legal Profession Uniform Law Application Regulation 2015 (“Application Regulation”).</p>		
AR – Cl 11(1)	Did the law practice deposit to the Statutory Deposit Account held by the practice's authorised ADI the required deposit not later than 20 banking days after the end of each applicable period?		
	If the law practice had a statutory deposit as at 31 March in the examination year, have you confirmed this		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	amount to documentation issued by the authorised ADI?		

GENERAL OVERVIEW OF MATTER FILES AND TRUST RECORDS

Objective: To provide an overview of the examination in respect of matter files and trust records.

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
	Are the matter files selected, a representative sample of both open files and those matter files closed during the period under examination?		
S147(2)-1	Have source records been sighted to confirm the accuracy of records in the trust account receipts and payments cash book and the trust account ledger?		
S138(1) & (2)	Were payments from the trust ledger accounts in accordance with the direction of the person on whose behalf the money was held unless subject to an order of a court of competent jurisdiction or as authorised by law?		
S147(2)-2	Have source records been sighted to confirm the accuracy of records in any controlled money accounts?		
S139(1)	Have (external) written directions been obtained to open any controlled money accounts?		
S139(3)	Were withdrawals from any controlled money accounts made in accordance with (external) written directions?		
S147(2)-3	Have source records been sighted to confirm the accuracy of records for trust money subject to specific power (excluding power money pursuant to an electronic lodgement network operator's settlement scheme (such as PEXA)?		
S141(1)	Was there any indication that trust money subject to power (excluding power money pursuant to an electronic lodgement network operator's settlement scheme (such as PEXA) was not dealt in accordance with that power?		
S147(2)-4	Have source records been sighted to confirm the accuracy of records for any investment of trust money?		
S137 & S147(2)	Is there any evidence of trust money not being recorded in the trust records of the law practice?		

Relevant Section of Legislation	Question	Answer (yes/no/not applicable)	Additional Comments
S137, S139 & S147(2)	Is there any evidence that trust money has been received and not dealt with through the appropriate records?		
S146	Has your review of the trust records disclosed any evidence of trust money being intermixed with other money without the authorisation of the designated local regulatory authority?		
S147(2)-5	Does the volume of breaches identified warrant an adverse opinion of the records in respect of one or more of the types of trust money or one or more of the registers reviewed? If so, please insert “Have Not” in the relevant section of paragraph 4 of the Opinion Section of the External Examiner’s Report and explain your reasons for the adverse opinion in paragraph 7.		