

Opening and operating a law practice trust account

This fact sheet sets out the steps to follow when opening a trust account.

INFORMATION FOR PRACTITIONERS AND APPROVED BARRISTER'S CLERKS

Prerequisites to opening a trust account

For a law practice to be authorised to operate a trust account, at least one practitioner in the law practice must hold a current practising certificate authorising the receipt of trust money. For example a:

- sole practitioner
- partner (if operating in a partnership)
- legal practitioner director (if operating in an incorporated legal practice)

To be eligible to apply for this practising certificate legal practitioners must:

1. Have completed the Trust Account Seminar; and,
2. Satisfy the Legal Services Board's ("the Board") [Grant of a Principal Practising Certificate Policy](#).

Approved barrister's clerks should refer to the [Victorian Bar](#) regarding trust authorisation.

The law practice or approved clerk must open a trust account with one of the banks recognised by the Board as an approved deposit-taking Institution. The banks are listed on the [Trust Accounts page](#) of the Board's website.

Account names

When opening a trust account, the law practice or approved clerk must ensure that their account name meets the requirements set out in the [Legal Profession Uniform General Rules 2015](#) ("the General Rules"), which requires all law practice trust account names to include the name of the law practice or approved clerk or the business name under which the law practice engages in legal practice.

A law practice must also include the expression "law

practice trust account" or "law practice trust a/c", while an approved clerk must also include the expression "approved clerk trust account" or "approved clerk trust a/c". Failure to do so will mean the trust account cannot be registered with the Board.

Notifying the Board

The law practice or approved clerk must notify the Board when a trust account is opened by completing Part A of [Notification of trust account details](#). This form must be signed by a principal of the law practice or the approved clerk.

The Board will confirm with the relevant bank that the account name is suitable and the date the account was opened. Upon receiving confirmation, the Board will ask the Commonwealth Bank of Australia to open a statutory deposit account (SDA) which will be linked to the new trust account. The Board will also provide the new SDA details and instructions for how to deposit and withdraw funds from the SDA using the Board's online portal, [LSB Online](#).

Law practices and approved clerks must provide the Board with the names of individuals who are authorised to operate their SDA. The Board will give the authorised individuals access to the online service in [LSB Online](#).

External examiners

Within one month of opening the trust account, the law practice or approved clerk must appoint an External Examiner (EE). The Board must be notified that an EE has been appointed within 14 days of the appointment by completing the following form:

- Part A of [External Examiners – Consent to Appointment](#). The principal of the law practice or an approved clerk and EE must sign this form.

The Board can assist law practices and approved clerks to find a registered EE operating in their area at [Register - External Examiners](#).

The above forms are all available on the [Board's website](#).

External examination requirements

Law practices and approved barristers' clerks who operate trust accounts are required to keep trust records. These records must be examined by an external examiner each trust examination year. The trust examination year runs from 1 April – 31 March. For more information on external examination requirements, please visit our [Website](#).

Can anyone else operate a trust account?

Under Rule 43(2) of the General Rules, if a principal of the law practice is not available to sign a trust cheque or effect an electronic funds transfer, then he or she may authorise any of the following to operate the trust account:

- An authorised legal practitioner associate (e.g. employed legal practitioner)
- An authorised Australian legal practitioner who holds an Australian practising certificate authorising the receipt of trust money
- Two or more authorised associates jointly (e.g. employed bookkeeper or practice manager). The definition of 'associate' can be found in s 6 of the Uniform Law.

Do we need to notify the Board of a trust signatory?

When a law practice completes its annual trust examination it is required to give the Board written notice of the associates or Australian legal practitioners (including their names and addresses) who are authorised as at 1 July of that year to sign trust cheques or to effect an electronic funds transfer (see: rule 50(2) of the General Rules).

Trust deficiencies/irregularities

If a legal practitioner, whether an associate of the law practice, or not, becomes aware of or forms a belief that there is a deficiency or irregularity in any of the practice's trust accounts or trust ledger accounts, [written notice](#) of the deficiency/irregularity must be given to the Board (see: ss 148 & 154 of the Uniform Law). This notification must include:

- the date on which the deficiency/irregularity occurred;
- the amount;
- the reason it occurred; and,
- any action taken to restore it.

Unclaimed money

For amounts of \$20 or more that have remained in trust for over 12 months, and where you cannot locate the

owner of the money, the law practice should pay the money to the [State Revenue Office](#).

Significant cash transaction report

If a law practice receives cash in a transaction valued at AUD \$10,000.00 or more, it is required by the Financial Transactions Reports Act 1988 (Cth) to report the transaction to AUSTRAC ([Australian Transaction Reports and Analysis Centre](#)). The law practice must contact AUSTRAC on 1300 021 037 or by email at contact@austrac.gov.au and enquire about how to report a significant cash transaction to AUSTRAC.

Further information

Contact the Board's Regulatory Compliance Programs team:

[Online Enquiry Form](#)

Email: trustgroup@lsbc.vic.gov.au