

Trust Accounts and New Developments

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Trust Accounts in Nova Scotia

- Question – How much money flows through trust accounts per year?
 - A. \$100 Million
 - B. \$500 Million
 - C. \$1 Billion
 - D. \$5 Billion
 - E. \$12 Billion



Trust Accounts in Nova Scotia

Answer (E) - \$12,000,000,000

- During 2016 there was approximately \$12B deposited into lawyers' trust accounts!
- On average each sole practitioner handles \$9M and each firm lawyer handles \$12M per year.

Trust Assurance Program

Risk based program which focuses on:

- education and support
- Trust Account Regulations
- client property/trust relationship
- client id and verification rules
- unclaimed trust funds
- applicable Practice Standards.



Trust Assurance Program

The trust account assurance program strives to be proactive and proportional in our response to violations and non compliance.



Trust Assurance Program

Trust Assurance Auditor position:

- Audits
 - Education & Legal Services Support
 - Risk identification
 - Assist with complaint investigations
 - Advice on tools and resources
 - National initiatives
 - Regulation and “rules” research and support
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- Dedicate more time and resources to **education** and support vs. audit and **compliance**.



Trust assurance program

Current and future progress:

- CLIA report “Benchmarking of Trust Accounting Risk Management Practices”
- Federation - Trust Accounting and Trust Safety Counterpart Group
- Federation – Anti-Money Laundering and Terrorist Financing Working Group
- Trust Account Regulation Review Working Group

CLIA report and Trust account benchmarks

- Client ID rules
- Best practices for opening, operating and retiring a trust accounts
- Trust transactions and risks including cyber fraud
- Records retention and safety
- Auditing practices and tools



CLIA report and Trust account benchmarks

- Reporting to the Law Society
- Practice management concepts
- Trust Audit Regime
- Anti-money laundering
- Special circumstances
 - (Security and fraud....)



Nationally (Federation).....

- No Cash Model Rule - (currently \$7,500 cash “limit”)
 - Review of “exceptions”
 - Provision of legal services
 - Peace officer, law enforcement officer
 - Court order
- Client identification – stronger rules and procedures
- Representative Capacity rules review



Changes to Regulations

- Requirements for operating a trust account (Jan 1, 2018)
 - Advance permission to operate a trust account
 - Designated lawyer must pass trust account assessment
 - Must obtain certificate from CPA
 - Arrangements put in place with bank
 - Law Foundation interest
 - Bank fees and costs, etc.

Changes to Regulations...

Annual Firm Report:

- All firms/solo's will report based on December 31
- Compliance and trust reporting



Accountant's Report Regulation

- Deadline March 31 (3 months) All firms/solo's
- May be waived (or extended) based on initial assessment and history

Future Research/Improvements

- Permitting floats (operating funds) in trust account to avoid overdrafts
- Reporting overdrafts to Executive Director
- Materiality of old/stale balances
- Funding of Trust Account Assurance program
- Electronic banking – (e.g. Block Chain)
- Cyber fraud
- Anti-money laundering



Questions

