

# Trust Accounts Basics

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# Trust Accounts

## Agenda

- Role of the Trust Assurance group.
- Common challenges and Best Practices
  - Trust account reconciliations
  - Old balances in trust accounts
  - Dealing with errors – shortages form
  - Internal controls.
- Changes coming in 2020
  - Trust Account Report
  - Dual authorization
  - Anti-Money Laundering (Frank)

# Trust Assurance team

We operate a risk based program focusing on :

- Protecting the public interest
- Education and support
- Facilitating & Monitoring regulation compliance
  - Oversee process for opening/closing trust accounts
  - Trust Audit program
    - TAR / ARTAR
    - Audits
- Update regulations and processes
- Undistributed trust fund application – old balances

# Best Practices / Common Challenges

- Where do we see issues or have concerns?
- What should you focus on?

# Reconciliations

- Trust Account Reconciliations
  - Ensure agreement between the accounting records and the Bank Statement.
  - Timely and accurate reconciliations are the best way to identify issues, errors, or omissions.
  - Must be completed monthly (at a minimum).
  - You must review reconciliations and ask questions.

# Old and Inactive Trust Account Balances

- Prevention is easier than cure.
- Old balances are a risk factor.
- Addressing old balances
  - Allocate time to this.
  - Make disbursements or return balances to clients
  - For stale dated cheques: Stop payment, reverse the entry, verify address, reissue cheque.
  - UTFA
- Consider balances when lawyers departing or if buying a practice.

# Undistributed trust fund application

The Society makes two applications per year, on behalf of members to turn over undistributable trust funds to the Public Trustee of Nova Scotia.

# Undistributed trust fund application

## **To qualify for UTFA:**

- Funds have been held in trust for at least two years
- Reasonable efforts have made to identify and contact the person(s) to whom the funds belong.
- Specific amounts are known and information is provided as to the source of the funds, reasons the funds were paid into trust, etc. if possible
- Lawyers certify, if possible, that there are no conditions to which the trust funds are subject.



# Dealing with Errors



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## Trust Account and Client Ledger Shortages

Regulation 10.6 *Reporting and addressing errors*

### Instructions

A practising lawyer or law firm must maintain sufficient balances on deposit in trust to meet the practising lawyer's or law firm's obligations with respect to money held in trust for clients, and all shortages must be restored immediately by the practising lawyer or law firm.

A practising lawyer or law firm must immediately report to the Executive Director any overdrafts in the practising lawyer's or law firm's trust account, including any relevant information regarding the reason for the overdraft if

- (a) the overdraft was not corrected within 7 days of the time the shortage arose; or
- (b) the overdraft is an amount greater than \$2500, regardless of when it occurred.

*Please use this form to report any overdrafts to the Executive Director. Email the form to [TrustAccounts@nsbs.org](mailto:TrustAccounts@nsbs.org). We do not require the original.*

# Internal Controls

- Accounting software systems password protected, with appropriate access levels.
  - Past periods should be locked to avoid back-dated entries.
- Ensure your staff's online banking access is limited.
- Segregation of duties.
  - May be difficult for small firms.
- Fidelity Insurance.

# Trust Account Report Changes

Deadline change:

For the 2019 reporting period, the Trust Account Report in the prescribed form must be filed with the Executive Director by **March 31** instead of January 31

- ARTAR is also due March 31
  - Plan ahead to give your accountant time !
- Questions are under review in light of regulation changes.

# Dual authorization

- Effective January 1, 2020 the requirement for a second signature for all withdrawals be deleted from the Regulations.
  - While it will not be mandatory, dual authorization is still considered a Best Practice for internal control in most situations.
  - Firms moving away from Dual Authorization are strongly encouraged to implement other additional internal controls.
    - Eg: Monthly review of trust transaction listings and reconciliations by multiple or all partners. Possibly review all trust transactions at partners meetings.

# Anti Money Laundering

The other big changes to regulations are in the area of Anti-Money Laundering, which Frank will cover.

# Questions

