



Auditor's Guide

To completing the 2018 Auditors report required under the *Property, Stock and Business Agents Act 2002 (the Act) – Section 111*

Who is qualified to carry out the audit?

A person is qualified to act as an auditor for the purposes of the Act if the person:

- ✓ is a registered company auditor within the meaning of the Corporations Act, or
- ✓ is an authorised audit company within the meaning of the Corporations Act, or
- ✓ is a member of a professional accounting body within the meaning of the Australian Securities and Investments Commission Act 2001 of the Commonwealth (i.e. CPA Australia, Institute of Chartered Accountants in Australia and National Institute of Accountants) and holds a Public Practice Certificate or Certificate of Public Practice issued by the body, or
- ✓ is a person who has been nominated by the person whose records and documents are to be audited and who has been approved by the Secretary by order in writing

and **NOT**

- ✓ at any time within 2 years before the last day of the period in respect of which the audit is to be made, or
- ✓ an employee or partner of the person whose records or documents are to be audited, or
- ✓ engaged in the business carried on by the person whose records or documents are to be audited, other than as an auditor for the purposes of this Act, or
- ✓ a licensee, or a shareholder in a corporation that is a licensee and that has not more than twenty shareholders.

Important information for the Engaged Auditor

- While all licensees who held or received trust money during their audit year **will still need to have their trust accounts audited, only those audits which are qualified by the auditor are required to be lodged by the auditor and licensee with Fair Trading**;
- The Act places a requirement on the auditor to forward a copy of the trust account audit (if qualified) to Fair Trading within **14 days** after providing the report to the licensee. A maximum penalty of 50 penalty units (\$5,500) is provided for a breach of this requirement;
- Licensees are now required to hold a copy of their trust account audit (whether qualified or not) at their registered place of business, for at least three years, and make it available to Fair Trading inspectors for examination if required;

Licensees who did not hold or receive trust money during the audit year will no longer lodge a statutory declaration to that effect. Instead, licensees will be required to note whether or not they did so when they next re-apply for their licence.

- NSW Fair Trading no longer handles **unclaimed trust money** (held for more than 2 years or held in a trust account by a former licensee or the personal representative of a deceased licensee). Please refer to The *Unclaimed Money Act 1995* – Part 2A Trust money under *Property, Stock and Business Agents Act 2002* at www.legislation.nsw.gov.au

What is a qualified audit report?

“Qualified” is defined as a discovery by the auditor of a breach of the Act or Regulations, any discrepancy relating to the trust account or a failure to keep records in a manner that enables them to be properly audited. (Refer to Table A)

Guide to completing the Auditor's Report

1. The only acceptable 2018 Auditor's Report can be obtained from Fair Trading website, www.fairtrading.nsw.gov.au
2. The Auditor's Report must list the Licensee Entity Name(s) and Licence No(s) on the front page of the report [not the business name], and the audit period that is applicable for that person. Most reports are for annual audit period ended 30 June.
3. The report provided by you pursuant to the provision of section 111 would be an engagement to examine the accounting records and internal controls and procedures of the Licensee Entity during the audit period, in relation to trust money and other matters designated by Part 7 Trust Money of the Act, and report those matters in terms of the generally accepted auditing standards and practice.
4. Each general trust account must be registered with an Unique identifying number.
5. This Guide provides a list of trust accounting requirements to guide you through designing the scope of your audit and in respect of these requirements makes reference to the appropriate provisions that are applicable under the *Property, Stock and Business Agents Act 2002* and its associated *Property, Stock and Business Agents Regulation 2014*. (see Table A)
6. This Guide has been prepared to assist auditors in their examination of the books, records, accounts and documents maintained by licensees in respect of trust moneys and to assess the compliance of those records with the appropriate legislation.
 - Any trust accounts, which held trust moneys during the audit period, form part of the examination.
 - This would include the general trust accounts held at any time during the year, and all separate trust accounts i.e. accounts held exclusively for the client, such as for a vendor & purchaser and the accounts maintained for strata plans or community title associations.
7. You should obtain direct written confirmation from the financial institution(s) as to the balance(s) of the trust account(s).
8. You must use appropriate sampling techniques and make appropriate inquiries during your examination to form an opinion as to whether the accounting records have been maintained in accordance with the Act and the Regulation.

Note: The auditor's declaration of the Auditor's Report requires the auditor to provide an opinion based on "appropriate examination" and "sampling techniques", rather than a one hundred per cent check of transactions.

9. You must provide a summary of your findings in respect of breaches of the Act and/or Regulation of the audit of the books and records of the trust account/s:
 - Any breaches are to be listed under Schedule 2 of the report
 - Your findings would, in terms of Declaration 7 of the report, be listed under Schedule 3
 - You should list "not applicable" in Schedules 2 and/or 3 when no breaches or findings are reported.
10. Where there is an audit qualification of a financial nature, the auditor must attach a copy of the trust bank reconciliation statement and the trial balance (incorporating the list of ledger accounts of the principals that moneys are held for), for the applicable accounting periods, and of the end of audit year period, as prescribed under clause 29 of the Regulation, in respect of the trust account(s) affected.

If applicable & not provided, list your explanation in Schedule 2 and/or 3 of the report.

11. You must discuss all breaches with the Licensee-in-charge for appropriate correction action to be taken.
12. The Act and the Regulation can be accessed at www.legislation.nsw.gov.au

Table A

Index:

S on the following pages means Section of the Act

C on the following pages means Clause of the Regulation

Section/clause(s)	Guide to completing the 2018 Audit Report
	<p align="center">Records pursuant to Part 4: Trust Money</p> <p align="center"><u>TRUST RECORDS</u></p>
C.33	Are trust records and book entries made in English?
C.20(2)	<p align="center">Are trust records kept at the registered office?</p> <p align="center"><i>List all trust accounts held during the year on Schedule 1 of the report</i></p>
C.20(4)	Are there any branch offices?
	<p align="center">Does the branch office operate a separate trust account?</p> <p align="center"><i>List all trust accounts held during the year on Schedule 1 of the report</i></p>
	Are trust accounts, if the Licensee Entity is a corporation, in the name of the corporation and, in any other case, in the name of the licensee or of the firm of licensees of which the licensee is a member?
S86(3)	Do the words "Trust Account" appear in the name of the trust account and in the description of the trust account in the books and records and also on all cheques drawn on the trust account?
S103, S104 Reg. Parts 4 & 5	Have the appropriate Licensee Entity records been provided for purposes of undertaking the audit of the trust accounts?
	<u>COMPUTER SYSTEM CONTROLS</u>
	Does the Licensee Entity maintain any trust records by means of a computer system?
C.22	What are the name of the Computer System Software(s) and version(s) used?
	Does the computer comply with system controls as prescribed in the Clause?

Section/clause(s)	Guide to completing the 2018 Audit Report
<p>S86(1), S54, S55, C8, Sch7, Sch 12- 14, S57</p> <p>C.18</p> <p>C.25(1)(a)</p> <p>C.25(1)(a)</p> <p>C.23(1)</p> <p>C.23(2)-(8)</p> <p>C.24(1)</p> <p>C.24(3)</p>	<p><u>STATEMENTS OF ACCOUNT/DISBURSEMENTS/EXPENSES</u></p> <p>Do statements of account contain particulars of the money received, disbursed and the balance remaining with the Licensee Entity?</p> <p>Are the commissions disbursed, costs incurred and sums reimbursed in accordance with instructions?</p> <p>Are the disclosure of rebates, discounts and commissions received from other parties, where occurring, contained in the agency agreements [this requirement does not apply to commercial land transactions]?</p> <p><u>DEPOSITS</u></p> <p>Is Trust Money banked in accordance with the Clause?</p> <p>Is a bank deposit book or other written bank record produced to the financial institution when the deposit is made?</p> <p>Is the bank deposit book or other written bank record produced to the financial institution in compliance with the Clause?</p> <p><u>TRUST ACCOUNT RECEIPTS</u></p> <p>Are trust receipts prepared when the Licensee Entity receives the trust money?</p> <p>Do trust receipt records comply with all provisions of the Clause?</p> <p><u>TRUST CHEQUES & ELECTRONIC PAYMENT TRANSFERS</u></p> <p>Are all funds drawn from the trust account by way of a trust cheque and/or electronic funds transfer?</p> <p>Are all cheques drawn in the numerical order of the series to which they belong?</p>

Section/clause(s)	Guide to completing the 2018 Audit Report
	<p>Are all cancelled cheques retained?</p>
C.24(2)-(4)	<p>Are trust cheque payments & particulars in accordance with the Clause?</p>
C.24(5)	<p>Are electronic funds payments & particulars in accordance with the Clause?</p>
	<p style="text-align: center;"><u>DAILY RECEIPT AND PAYMENT TRANSACTIONS (CASH BOOK)</u> <u>- MANUAL & COMPUTER SYSTEMS</u></p>
C.26(1)-(4)	<p>Does the Licensee Entity maintain a record of trust account transactions that records daily trust receipts and payment transactions that would constitute a cash book in accordance with the Clause?</p>
C.26(3)-(4)	<p>Is the daily record of the particulars of money in and out of the trust account entered as soon as practicable after the receipt or payment of the money?</p>
C.26(5)	<p>Is the cash book balanced at the end of each month and carried forward in accordance with the Clause?</p>
	<p style="text-align: center;"><u>TRUST RECONCILIATIONS</u></p> <p>Does the licensee, at the end of each month, prepare a statement reconciling the balance of the Licensee Entity's trust account with the balance of the related cash book?</p> <p>Do reconciliation statements accurately reflect the reconciliation of the balance(s) of the trust account(s) with the balance(s) of the cash book(s)?</p>
	<p style="text-align: center;"><u>TRUST ACCOUNT JOURNAL</u></p>
C.27(1)	<p>For each trust account, has the Licensee Entity effected any transfers between accounts in the trust account ledger that are not effected by cheque or electronic funds transfer?</p>
C.27(2)-(3)	<p style="text-align: center;">If "Yes" to Item i.1.</p> <p>Is a journal maintained for each trust account/s that is in accordance with the requirements of the Clause?</p>

Section/clause(s)	Guide to completing the 2018 Audit Report
	<p data-bbox="485 237 1321 297"><u>ADDITIONAL REQUIREMENTS FOR STRATAMANAGING AGENTS AND COMMUNITYMANAGING AGENTS</u></p> <p data-bbox="477 331 1362 483">Does a: strata managing agent (for a strata plan owners corporation) or community managing agent (for a community association, precinct association or neighbourhood association) keep the following records:</p> <p data-bbox="469 515 1366 636"><i>Either:</i> A single trust account ledger that is in a form permitting each account for an owners corporation, community association, precinct association or neighbourhood association to be physically removed from the ledger?</p> <p data-bbox="451 723 1385 844"><i>Or</i> A separate trust account ledger for each owners corporation, community association, precinct association or neighbourhood association that is in a form that permits it to be physically removed from the ledger?</p> <p data-bbox="480 913 1358 1066">Does each ledger kept for an owners corporation, community association, precinct association or neighbourhood association contain sufficient information to enable the name of the owners corporation, community association, precinct association or neighbourhood association for which it is kept to be identified?</p> <p data-bbox="667 1126 1018 1155"><u>TRUST ACCOUNT LEDGER</u></p> <p data-bbox="461 1189 1289 1249">Does the Licensee Entity maintain a separate ledger account for each principal?</p> <p data-bbox="429 1279 1358 1308">Are those ledger accounts in accordance with the requirements of the Clause?</p> <p data-bbox="539 1397 1149 1426"><u>PROVISION OF UNIQUE IDENTIFYING NUMBER</u></p> <p data-bbox="461 1491 1377 1610">Has the Licensee opened a trust account in accordance with section 86 (4) of the Act and provided the authorised deposit-taking institution, at the time of making the application to open the account, with a unique identifying number obtained from the Office of Finance, Services & Innovation?</p> <p data-bbox="437 1767 1342 1919">Has the licensee who maintains a trust account opened on or before 31 December 2014, in accordance with section 86 (4) of the Act, provided the authorised deposit-taking institution with a unique identifying number obtained from the Office of Finance, Services & Innovation before 1 July 2015?</p>

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	<p align="center"><u>WRITTEN PROCEDURES & CHECKLIST</u></p> <p>In accordance with Section 32 (4) requirements 1 & 2, are, if applicable, the required written procedures, checklist or review system in place and, that in accordance with requirement 6 is documented and evidences regular use & maintenance of the required documentation in accordance with those requirements?</p> <p>For more information refer to the Commissioners Guidelines on supervision, available from the Rules of conduct page on the Fair Trading website at www.fairtrading.nsw.gov.au</p> <p><u>TRUST ACCOUNT POSITION/ TRIAL BALANCES/OVERDRAFTS</u></p>
S32	
C.29	Have trust trial balances been prepared within 21 days after the end of each month and in accordance with the Clause?
S86(1) / S88	<p>Do any trust accounts show debit balances or otherwise indicate a deficiency of trust funds to pay trust creditors at any time?</p> <p>Have all of those debit balances or the indicated deficiencies been rectified as soon as practicable after the time when the deficiencies should have become apparent?</p> <p>Are details of the accounts concerned, the duration of the debit balances and the method of restoration (if applicable) outlined for the particular account(s) in the auditor's report?</p>
S89	<p>Have all overdrafts on trust bank statements of the general trust account(s), identified under n.2 above, been notified to NSW Fair Trading within five (5) days of the licensee becoming aware of the overdraft?</p> <p>For trust account(s) that list debit balances or otherwise indicate a deficiency of trust funds to pay trust creditors in the audit year, have a copy of the appropriate trust bank reconciliation statement(s) and trial balance (s) <i>(incorporating the list of ledger accounts of principals that moneys are held for)</i> of the effected accounting periods and for the final end of the auditing period in respect of the effected trust accounts been enclosed with the auditor's report? <i>If not, list reasons in Schedule 2 and/or 3 of the report.</i></p>

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	<p style="text-align: center;">Other Trust Money records- particular agents</p> <p style="text-align: center;"><u>STOCK AND STATION AGENTS RECORDS</u></p> <p>C.35 Records of livestock bought. Does the agent maintain a written record of livestock purchases, in accordance with the Clause?</p> <p>C.36 Records of sales of livestock. Does the agent maintain a written record of livestock sales, in accordance with the Clause?</p> <p style="text-align: center;"><u>STRATA/COMMUNITYMANAGING AGENT S RECORDS</u></p> <p style="text-align: center;">Has:</p> <p style="text-align: center;">the strata managing agent (for a strata plan owners corporation) or the community managing agent (for a community association, precinct association or neighbourhood association), relating to the management of each fund, prepared, signed and forwarded a report that are forwarded within 1 month of the date of the report to the treasurer & are in accordance with the Clause:</p> <p style="text-align: center;"><i>Either</i></p> <p>C.37 if the money is held in a separate trust account kept for the owners corporation or association—at least once in every 3 months? <i>or</i> if the money is not held in a separate trust account kept for the owners corporation or association—at least once in every 3 months?</p> <p style="text-align: center;"><i>or</i></p> <p style="text-align: center;">if the agent ceases to act as managing agent for the owners corporation or association - within 14 days after termination of the agency agreement?</p>