

## **IMPORTANT NOTES BEFORE COMPLETING THE 2017 AUDITORS REPORT**

### **A. Important information for the Licensee Entity**

**Amendments under the Property, Stock and Business Agents Amendment Act 2012 now affects your audit obligation as a licensee under the Property, Stock and Business Agents Act 2002T**

requirement falls under section 111 of Part 8 Division 2 of the Act, as follows;

*“(1) A person who is a licensee, a former licensee or the personal representative of a licensee must, within 3 months after the end of the audit period applicable to the person:*  
*(a) cause the records and documents relating to any trust money held during that period by the person in accordance with this Act to be audited by a person qualified to act as an auditor for the purposes of this Division, and*  
*(b) if the auditor’s report on the audit is a qualified report, lodge the report with the Director – General..*

*(1A) An auditor’s report is a **qualified report** if it sets out any discovery by the auditor that any breach of this Act or the regulations has been committed, that there is any discrepancy relating to the trust account to which the audit relates or that the records or documents concerned are not kept in such a manner as to enable them to be properly audited.*

*(3) An Auditor’s report under this section must be kept for a least 3 years:*  
*(a) by the licensee at the licensee’s registered office (while the licensee remains a licensee), or*  
*(b) if the licensee ceases to be a licensee, by the former licensee in his or her possession, custody or control unless the former licensee authorises some other person to have possession, custody or control of the report, or*  
*(c) by any other person who obtains possession, custody or control of the report whether as a result of being the personal representative of a licensee or by transfer of the business of the licensee or otherwise.*

- i) *The list of persons who are qualified to audit trust accounts is expanded to include audit companies and members of certain professional accounting bodies who hold a Public Certificate or Certificate of Public Practice. You should ensure the auditor you engage holds a current registration – you can check this at the following Australian Securities & Investments Commission website page, <http://www.search.asic.gov.au/pro.html>.*

### **B. Important information for the Engaged Auditor**

- i) Under section 115 of the Act, a person can undertake this audit only in the following circumstances;

#### **115 Qualifications of auditors**

*(1) A person is qualified to act as an auditor for the purposes of this Division if the person:*  
*(a1) is an authorised audit company within the meaning of the Corporations Act, or (a2) is a member of a professional accounting body within the meaning of the Australian securities and Investments Commission Act 2001 of the Commonwealth and holds a Public Practice Certificate or Certificate of Public practice issued by the body, or*

*(b) 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 Director-General by order in writing.*

(2) Such a person is not qualified to act as an auditor for the purposes of this Division if the person:

- (a) is or has at any time within 2 years before the last day of the period in respect of which the audit is to be made, been an employee or partner of the person whose records or documents are to be audited, or
- (b) is a licensee, or a shareholder in a corporation that is a licensee and that has not more than twenty shareholders.

- ii) **Under section 116, the person engaged to undertake the audit has the following duty;**
  - (1) If an auditor in the course of making an audit for the purposes of this Division discovers that any breach of this Act or the regulations has been committed, that there is any discrepancy relating to the trust money to which the audit relates or that the records or documents concerned are not kept in such a manner as to enable them to be properly audited, the auditor must:**
    - (a) fully set out the facts so discovered by the auditor in the report made by the auditor for the purposes of the audit, and**
    - (b) forward a copy of the report to the Director-General within 14 days after providing the report to the licensee.**

**Maximum penalty: 50 penalty units**

- iii) This auditor's 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.
- iv) This report would be an examination, in terms of, but does not have to be limited to, the following provisions of the legislation;

- Part 8 Records, Division 1, sections 103 and 104 of the Act
- Part 7 Trust Money, Division 1, section 85, Division 2, sections 86 and 88 to 89 and Division 4, sections 96 and 97 of the Act

Required documents and list of deposit-taking institutions can be accessed via [http://www.fairtrading.nsw.gov.au/Property\\_agents\\_and\\_managers/Agency\\_responsibilities/Trust\\_accounts.html](http://www.fairtrading.nsw.gov.au/Property_agents_and_managers/Agency_responsibilities/Trust_accounts.html)

- Part 4 Trust Money and Part 5 Records, of the Regulation
- The commission and expenses that may be charged, and rebates or discounts and the disbursements [in accordance with section 86 (1) ( b) of the Act] that may be effected, are prescribed under Part 4 Agency Agreements Division 1 sections 54, 55 (1) – (3) and 57 of the Act and incorporating Part 2 Conduct of agency business, clauses 12 and clause 13 [in particular, for commission and sums or costs Schedule 7 clauses 8 & 9 ] [ and for disbursements, Schedule 12 management of residential & rural land clause 1 (d) – (g) and (k), Schedule 13 leasing only of residential and rural land, Schedule 14 management of strata or community title land] of the Regulation
- The provisions of Part 3 General conduct of licensees and registered persons Division 2 section 32 (4) requirements 1, 2 and 6 would be applicable for trust record-keeping purposes

See these requirements at this site;

[http://www.fairtrading.nsw.gov.au/pdfs/Property\\_agents\\_and\\_managers/psbas32guideline.pdf](http://www.fairtrading.nsw.gov.au/pdfs/Property_agents_and_managers/psbas32guideline.pdf).

- v) The legislation can be accessed under "Browse" at <http://www.legislation.nsw.gov.au/>.

**C. REQUIRED TRUST BANK RECONCILIATION(S) AND LIST OF TRUST TRIAL BALANCE(S) FOR THE AUDIT YEAR 1 JULY 2016 TO 30 JUNE 2017**

**Where there are audit qualifications of a financial nature, the auditor must attach a copy of the trust bank reconciliation statements and the trial balance (incorporating the list of ledger accounts of the principals that moneys are held for), for the relevant accounting period/s, and for the final end of audit year accounting period, in respect of the affected Trust Account/s.**

**D. General information**

Information about the Property Stock and Business Agents Act 2002 can be found on the NSW Fair Trading home page at <http://www.fairtrading.nsw.gov.au>. by accessing the sites under Property Agents & Managers.

Trust audit guidelines to assist with the completion of this audit can be accessed on the same NSW Fair Trading website, <http://www.fairtrading.nsw.gov.au>, go to Property Agents & Managers, Agency responsibilities, Trust accounts and then Trust account audit requirements for audit information and form.



This AUDITOR'S REPORT is only required to be lodged with Fair Trading if it is qualified by the auditor

AUDITOR'S DECLARATION

Dated: this [ ] day of [ ] 20 [ ]

Auditor's Full Name : [print in full] [ ]

Auditor's Firm: [if applicable] [ ]

\*Company Auditor's Registration Number: [if applicable] [ ]

Auditor's Postal Address: [ ] Phone No. [ ]

- 1. Neither I or my firm are disqualified from undertaking this audit pursuant to section 115 of the Act.
2. Pursuant to section 111, I have completed this report in respect of the following Licensee Entity (ie sole trader, or corporation or partnership) that held trust moneys and carried on business, or held trust moneys and was inactive, during the period:

Licensee Entity Name(s): [ ]

Licensee Entity No(s) of the above: [ ]

For audit year 01/07/2016 to 30/06/2017 Due by 30/09/2017

- 3. The Trust Records referred to in this report relate to Trust Accounts, as listed under Schedule 1, conducted under the Licensee Entity Name(s) as named above, being in relation to trust moneys received or held during the above audit period

4. I was provided with the Trust Records of the Licensee Entity for whom this report is prepared, on: \_\_\_\_\_/\_\_\_\_\_/20\_\_\_\_
5. In carrying out the audit, I have made test examinations of the transactions recorded in the Trust Accounts in accordance with generally accepted auditing standards and practice.
6. In accordance with item 8 Notes, this AUDITOR'S REPORT has identified breaches that are in contravention of the legislation.

YES  NO  If Yes, those breaches are listed on Schedule 2

7. In my opinion, subject to the qualifications as reported on Schedule 3, for the period covered by the report, having regard to the legislation applicable at the time that the money was held in the Trust Accounts, based on appropriate examinations and sampling techniques:-
- a. the books of account required to be kept under Sections 103 and 104 of the *Property, Stock and Business Agents Act 2002* have been kept in accordance with the Act and its associated Regulation,
  - b. during the period of reconciled balance(s) of the trust account(s) were sufficient to meet all trust creditors of the licensee entity as disclosed by the books of accounts and records.

Licensee was able to provide all documents requested.

All breaches listed under Schedule 2 were discussed with Licensee in Charge.

Signature of Reporting Auditor :-

**SCHEDULE 1**

*For Licensee Entity*

**DETAILS OF TRUST ACCOUNTS HELD**  
For AUDIT YEAR 01/07/2016 TO 30/06/2017

<i>Name of Trust Account / UID</i>	<i>Name of Financial Institution</i>	<i>BSB No.</i>	<i>Account No.</i>	<i>Closing balance [or if closed during this period, date closed]</i>

**SCHEDULE 2**

*For Licensee Entity*

**SUMMARY OF BREACHES OF THE ACT AND/OR REGULATION**

For AUDIT YEAR 01/07/2016 TO 30/06/2017

[If no breaches noted show result “NIL”]

<b><i>Section of Act/ Clause of Regulation</i></b>	<b><i>DESCRIPTION AND EXTENT OF BREACH</i></b>

**SCHEDULE 3**

*For Licensee Entity*

**SUMMARY REVIEW OPINION MEMORANDUM**

For AUDIT YEAR 01/07/2016 TO 30/06/2017

This memorandum summarises the reasons for issuing a **qualified opinion** to the audit report and is to be completed after considering the results of all procedures followed to complete the Report.

If no qualified opinion noted show result "NIL"




**Important: Read the information that is provided in this documentation and on the NSW Fair Trading website before making any telephone inquiries.**

I, the licensee-in-charge \_\_\_\_\_

[print full name]

acknowledge that I have received this completed 2017 Auditor's Report.

Licensee signature \_\_\_\_\_ / \_\_\_\_\_ /20

**E Mail to:-**

**[audits@finance.nsw.gov.au](mailto:audits@finance.nsw.gov.au)**

**Inquiries:**

*Telephone: 13 32 20*

Office Hours: 8:30 am – 5:00 pm  
Monday – Friday

**The Licensee Entity is required to retain a full copy of this report at their registered office whether the report is qualified or not for a period of three years and make it available for inspection by NSW Fair Trading if required.**