

Information for Auditors

2019-2020

Focus of Special Purpose Audit Report and Checklist 2019-2020

Month end reconciliations are the focus for the Special Purpose Audit Report and Checklist 2019-2020, in particular that the managing property agent has checked that the supporting schedules and bank statement agree to the certification document that has been signed as being complete and accurate. It is not sufficient to conduct the audit by accessing the proprietary system. There is a requirement to view month end reconciliation documentation held by the Property Agent.

A further focus for the Audit is detailing whom within the agency business can authorise/make payment from the trust account.

Contents

| | |
|---|---|
| Focus of Special Purpose Audit Report and Checklist 2019-2020..... | 1 |
| Audit and Checklist Documents..... | 2 |
| Review last year's findings..... | 2 |
| Inspection Results 2019-2020..... | 2 |
| Audit Lodgement..... | 3 |
| Full compliance..... | 3 |
| Irregularities..... | 3 |
| Definition of Trust Money..... | 3 |
| Trust Account Records to be kept at authorised place of business..... | 4 |
| Terminology used in Audit Report and Checklist..... | 4 |
| <i>Account use</i> | 4 |
| <i>Audit Report</i> | 4 |
| <i>Audit Year</i> | 4 |
| <i>Business Name</i> | 4 |
| <i>Completion Time</i> | 4 |
| <i>Current form</i> | 4 |
| <i>Information</i> | 4 |
| <i>Legislation</i> | 4 |
| <i>Licence Name</i> | 4 |
| <i>Lodgement</i> | 4 |
| <i>One audit report per trust account</i> | 4 |
| <i>Penalty</i> | 4 |
| <i>Period for audit</i> | 4 |
| <i>Prescribed period</i> | 4 |
| <i>Property Agent</i> | 4 |
| <i>Reference Number</i> | 4 |

Audit and Checklist Documents

All audit documentation is available under the Trust Accounting tab on the Board's website www.propertyagentsboard.com.au under the TRUST ACCOUNTING tab.

There are two different Audit Report and Checklist documents available on the Board's website.

The document titled **Special Purpose Audit Report and Checklist 2020** is the document to be used for the normal annual audit for the period ended 30 June 2020.

The other document which is called **Final Special Purpose Audit Report** is for use when the business is closing, or a particular trust account has been closed. This document allows a different period than the audit. The Board will accept a **Final Special Purpose Audit Report** for a period exceeding 12 months if the business or trust account is closing within 3 months of the end of the audit year. That is, the period audited could be for 14 months for example 1 July 2019 to 31 August 2020 as the business has closed.

Review last year's findings

To assist with the audit process the Auditor should review last year's audit findings. The property agent should also provide access to the inspection reports by the Board (if conducted) and any correspondence from the Board following the annual audit, the cyclical inspection or any specific review by the Board's Inspector.

Where breaches of the *Property Agents and Land Transactions Act 2016* (the Act) and/or the *Property Agents and Land Transactions Regulations 2017* (the Regulations) were raised with the Property Agent as above have not been rectified, details of the non-compliance should be included in the Auditor's Report or the Auditor's accompanying correspondence.

Inspection Results 2019-2020

The Board's Inspector has reported to the Board that common non-compliance identified during inspections are as follows:

- Regulation 6. Supervision of trust accounts
- Regulation 8. Control of trust money
- Regulation 13. Trust account cheques
- Regulation 14. Payment by electronic funds transfer
- Regulation 21. Monthly reconciliations

Payment from the Trust account – authority to release/make payment

A new addition to the checklist is to provide details of who can authorise/make payment from the trust account. This information may be two-fold. The Board has found that the managing property agent, directors or senior staff may be the signatory for a trust account but other staff members within the agency have access to make payments from the trust account (predominately by EFT).

Payment from the Trust account – authority to release/make payment

Another addition to the checklist is to see whether the business has a policy in place to provide trust account details to clients and customers and verification of account numbers regarding payment from the trust account.

Audit Lodgement

Regulation 31 of the Regulations provides that -

A property agent must, within three months after 30 June of each year, cause an audit to be made by an auditor of the trust accounts and accounting records kept by that property agent in respect of the audit year.

A person who ceases to carry on the business of a property agent must cause the trust account records kept by the person in respect of the prescribed period to be audited by an auditor within 3 months after the end of the prescribed period.

If a property agent dies, the property agent's personal representative must cause the trust account records kept by the property agent in respect of the prescribed period to be audited by an auditor within –

- (a) 3 months after the end of the prescribed period; or
- (b) such later period as the Board may allow.

The property agent must provide their trust account records to their auditors within sufficient time for the audit to be completed and the report lodged with the Board by 30 September 2020. If the Special purpose Audit Report and Checklist is not lodged by this date a late fee of \$74.50 applies per trust account.

If a property agent has closed a trust account or business the Board has developed a “final” Audit Report and Checklist.

Full compliance

Regulation 35 (3) of the Regulations provides that if the auditor finds that the requirements of the Act or Regulations in respect of trust money and the keeping of accounts have not been complied with fully, the auditor must specify in the audit report the matters in respect of which Section of the Act or Regulation has not been complied with fully.

There is no level of materiality to the requirement of the Act or Regulation.

Irregularities

Regulation 36 (1) states that an auditor must give a report to the Board as soon as practicable after discovering one or more of the following irregularities:

- (a) the trust account records being kept in a manner that prevents them from being properly audited;*
- (b) something that appears to the auditor to involve dishonesty or a breach of the law;*
- (c) a deficiency of trust money in the trust account or ledger account;*
- (d) a failure to pay or account for trust money;*
- (e) a failure to comply with the provisions of the Act relating to the keeping of trust accounts.*

Definition of Trust Money

Section 133 of the *Property Agents and Land Transactions Act 2016* (the Act) provides a definition of Trust money. It says that Trust money is money that is received by the property agent conducting business on behalf of a party to negotiations which the property agent is involved or as a stakeholder or on behalf of another person as rent for property that is leased or let. In the simplest terms, trust money can be considered as **deposits, bonds and rent**.

Commission and Management fees are payment for work performed. Sometimes the commission is paid by release of the sales deposit on a contract for sale and management fees are taken from rent paid however if additional payment is received then it should be paid into the agency's general working account, not the trust account.

Trust Account Records to be kept at authorised place of business

A property agent must keep all the trust account records for the property agent's business at the property agent's authorised place of business or such other place as the Board may approve. This approval must be given in writing by the Board.

Terminology used in Audit Report and Checklist

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|------------------------------------|---|
| Account use | This identifies what transaction types go into the trust account ie, sales, property management, both sales and property management, auctions etc |
| Audit Report | An auditor who is appointed to carry out an audit under Regulation 31 must, as soon as practicable after the audit is completed, give the Property Agent the audit report including the current audit checklist. |
| Audit Year | Means the period of 12 months ending on 30 June each year |
| Business Name | This is the business or trading name |
| Completion Time | An auditor who is appointed to carry out an audit under Regulation 31 complete the audit within three months of 30 June , or of the date the registered Property Agent ceased business. |
| Current form | Prior forms cannot be used as there have been significant changes; if incorrect forms are used they will be returned for rectification. |
| Information | Further important information for auditors is available on the Board's website. http://www.propertyagentsboard.com.au/trust-accounting.html |
| Legislation | <i>Property Agents and Land Transactions Act 2016</i> <i>Property Agents and Land Transactions Regulations 2017</i> |
| Licence Name | This is the name on the Board's Register. Eg ABC Pty Ltd the register of property agents conducting business is available on the Board's website. http://www.propertyagentsboard.com.au/register-of-property-agents . |
| Lodgement | Lodgement is the responsibility of the Property Agent. Due date for lodgement is within three months of the 30 June , or cessation of business. |
| One audit report per trust account | A separate audit report and audit check list must be prepared for each trust account maintained by the Property Agent. |
| Penalty | The penalty for the failure to cause an audit to be undertaken in accordance with the regulations is a fine not exceeding 50 penalty units (1 penalty unit is \$168.00). There is also a penalty for late lodgement of \$74.50 |
| Period for audit | A special purpose audit is required for the full year ended 30 June, as prescribed under regulatory requirements. |
| Prescribed period | In relation to a property agent who dies or a person who ceases to carry on the business of a property agent in any audit year, means the period from immediately after the end of the previous audit year to the day in the audit year on which the person dies or ceases to carry on the business. |
| Property Agent | For the purposes of the Audit Report and Audit Checklist the term Property Agent refers to a real estate agent, property manager or general auctioneer. |
| Reference Number | Each item has been given a reference number to cross reference any non-compliance. |