

# Information for Auditors

## 2021-2022

### *Focus of Special Purpose Audit Report and Checklist 2021-2022*

Month end reconciliations are the focus for the Special Purpose Audit Report and Checklist 2021-2022, 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 for the auditor to view the hard copy month end reconciliation documentation held by the Property Agent.

A further focus is to ensure that the month end reconciliation report contains all supporting hard copy documentation. The month end reconciliation bundle of documentation should be a complete package of information. A new question at point 44 has been included to address this issue.

### *Legislative Changes during the reporting period*

- *Property Agents and Land Transactions Act 2016* was amended on 4 May 2022 – there are no changes that relate to trust accounting;
- *Property Agents and Land Transactions Regulations 2017* was amended on 4 May 2022 – there were no changes that relate to trust accounting;
- *2022 Code of Conduct – Version 4* came into effect on 1 January 2022. *An amendment to supervision provisions are reproduced below.*

## **PART 2 - Supervision of Employees**

### **6. Supervision of employees and persons engaged by property agent**

- (1) A real estate agent, property manager, or general auctioneer, who manages a property agent's business –
  - (a) **must** diligently supervise the work of all other persons employed or engaged to work in that business and must ensure that they **and all persons employed or engaged to work in that business** understand and comply with the Act, the regulations and this Code of Conduct;
  - (b) while being permitted to delegate tasks to other persons employed or engaged to work in that business, must not delegate the responsibility for any aspect of the work undertaken in that business; and
  - (c) treat those under his or her supervision with respect, care and patience.

### *Advice to Property Agents during the reporting period*

There was an Advice Note recently developed to inform property agents about the minimum requirements for hard copy month end reconciliation documentation and keeping of documents electronically.

A copy of the Advice Notice included at the end of this document and available on the Board's website

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## *Audit and Checklist Documents*

All audit documentation is available under the Trust Accounting tab on the Board's website [www.propertyagentsboard.com.au](http://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 2022** is the document to be used for the normal annual audit for the period ended 30 June 2022.

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 2021 to 31 August 2022 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 2021-2022*

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 21. Monthly reconciliations
  - Opening balance not agreeing with closing balance of the prior month
  - Signing the wrong reconciliation report page
  - Not identifying and/ or clearing unidentified funds
  - Not including all supporting documents with month end reconciliation

## *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 2022. If the Special purpose Audit Report and Checklist is not lodged by this date a late fee of \$78.20 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*

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 <b>30 June</b> , 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. <a href="http://www.propertyagentsboard.com.au/trust-accounting.html">http://www.propertyagentsboard.com.au/trust-accounting.html</a>
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. <a href="http://www.propertyagentsboard.com.au/register-of-property-agents">http://www.propertyagentsboard.com.au/register-of-property-agents</a> .
Lodgement	Lodgement is the responsibility of the Property Agent. Due date for lodgement is within three months of the <b>30 June</b> , 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 (from 1 July 2022 one penalty unit is \$181.00).  There is also a penalty for late lodgement of \$78.20
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 <b>Property Agent</b> 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.



## Trust Account Reconciliation Records

The Property Agents Board (the Board) acts as the regulatory authority for property agents in Tasmania.

This advice note is provided to assist property agents to understand the requirements relating to Trust Account Reconciliation Records.

**Please note** the following information is intended only to provide a general overview and may be subject to change.

### Trust Account and Statutory Records

The *Property Agents and Land Transactions Act 2016* (the Act) and the *Property Agents and Land Transactions Regulations 2017* (the Regulations) outline the specific legislative requirements in relation to holding trust money and trust account records.

### Trust Account Reconciliation

Regulation 21 provides that a property agent must reconcile the property agent's trust account at least once in each calendar month.

The Regulation then states that the account is reconciled when the totals of the trust account cash books, the bank statement, and the ledger accounts all match – separate advice notes are available to discuss these terms.

### Proprietary systems

There are many different proprietary systems that provide trust accounting solutions, and any direction provided by the Board must be robust enough to encompass various circumstances.

All property agents that hold a trust account must comply with Regulation 21 of the Regulations regardless of how the trust accounting records are created.

### Keeping of Trust Accounting Records

The Regulations provide for where trust account records are to be kept (Regulations 23); that Records may be prepared and stored electronically (Regulation 24); as well as retention and disposal of trust account records (Regulation 25).

### Month end Reconciliation Records

A Month End Reconciliation Record should be a “point in time” document. The Month End Reconciliation Record should contain detail of all the information that makes up the reconciliation figures and held in month order. It is not appropriate for the components of a Month End Reconciliation Record to be separated at any time.

There is a requirement for the month end reconciliation record to provide certain information.

The Board has formulated this advice note to ensure that property agents comply with the requirements for month end reconciliation records.

A month end reconciliation record must include:

- A “summary sheet” that identifies the balance of the cash books, the bank statement and the ledgers and which contains the endorsement and physical signature of the managing agent that the record is complete and accurate.
- the schedule of the cash books;
- the bank statement;
- the schedule of ledger accounts; and
- **if** the property agent holds invested trust money, the schedule of invested money.

Depending on the size of the business and the type of business being undertaken will determine the size of the month end reconciliation record.

To assist property agents, the Board will authorise property agents to create a condensed Month End Reconciliation Record which is printed and kept at the authorised place of business and permit the full Month End Reconciliation Record to be stored electronically.

#### **Month End Reconciliation Record: Condensed**

The condensed record is an abbreviated version of the full month end reconciliation record (which is still required to be kept). It must be printed and held as a hard copy at the authorised place of business for a full financial year after audit.

The Condensed Month End Reconciliation Record consists of:

- the “summary sheet” which has the three-way match of bank balance, cashbook and ledgers. The Reconciliation Record is physically signed with the endorsement by the property agent that the record is “complete and accurate”. For good practice, the preparer of the reconciliation should also sign the reconciliation record.
- a copy of the financial institution statement identifying the month end balance.
- the cashbook balance
- the Trial balance indicating the balance in each ledger account; and
- the schedule of invested money, if appropriate.

### **Month End Reconciliation Record: Full**

The month end reconciliation record is the grouping of the following documentation, which may be stored electronically but must be accessible and in a format that can be printed regardless of the proprietary system used:

- the “summary sheet” which has the three-way match of bank balance, cashbook and ledgers. The Reconciliation Record is physically signed with the endorsement by the property agent that the record is “complete and accurate”. For good practice, the preparer of the reconciliation should also sign the reconciliation record;
- the financial institution statement for the entire month;
- the cashbook for the entire month;
- the ledgers identifying the name of each client, property or transaction for whom the property agent holds trust money and the amount of money held in each ledger account for the entire month; and
- the schedule of invested money, if appropriate.

The Month End Reconciliation Record can be stored as a hard copy or stored electronically.

If the Month End Reconciliation Record is stored electronically, there must be a written process identifying how that information can be retrieved.

The Month End Reconciliation Record must be accessible without the use of any specific proprietary software (ie it should be held as a pdf).