



The South African Institute of Chartered Accountants

Guidance for Auditors
The Audit of Attorneys' Trust Accounts
in terms of the
Attorneys Act, No. 53 of 1979 and the
Applicable Rules of the
Provincial Law Societies

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The Audit of Attorneys' Trust Accounts

CONTENTS

Preface	
Introduction	<i>Paragraphs</i> .01 – .03
Incorporated practices	.04
General principles	.05 – .06
Defining the terms of the engagement	.07
Planning	.08 – .09
Fraud and error	.10 – .12
Enquiries of management	.13 – .16
Management representation letters	.17
Reporting	.18
 Appendices	
Appendix I - Illustrative Audit Report	<i>Page</i> 4
Appendix II - Internal Control Questionnaire	7
Appendix III - Specimen Engagement Letter	24
Appendix IV - Specimen Management Representation Letter	26
Appendix V - Minimum procedures to be carried out by an auditor engaged to perform the audit of Attorneys' Trust Accounts	28

PREFACE

This booklet has been developed by The South African Institute of Chartered Accountants (SAICA) primarily to provide guidance on the audit of attorneys' trust accounts and to highlight the audit issues in this area.

The booklet assumes that the audit is carried out in accordance with generally accepted auditing standards and discusses the special factors to be considered in the application of generally accepted auditing standards to the audit of attorneys' trust accounts. It is supplementary to, and should be read in conjunction with, Statements of South African Auditing Standards issued by the Public Accountants' and Auditors' Board.

This booklet does not have the authority of an accounting and auditing guideline. It is issued for the information of members and is intended to assist them in identifying special aspects relating to this type of engagement.

This booklet has been prepared by the accountant members of the Attorneys' and Accountants' Joint Committee of SAICA, in consultation with the Attorneys Fidelity Fund, the Provincial Law Societies and the Law Society of South Africa.

ERRATA: FEBRUARY 2009

Since the Guide was issued in June 2004, significant changes relating to the independent auditor's report and SAAS statements has rendered certain sections of the Guide outdated. It should also be noted that reference to South African Auditing Standards is no longer appropriate as South Africa adopted International Standards on Auditing in 2006.

In July 2008, the Joint Attorneys' and Accountants' Committee of SAICA, the Independent Regulatory Board for Auditors (IRBA) and the different Provincial Law Societies reached consensus on the format of the "Form of Report by Independent Auditor" to be presented by auditors with respect to the audit of attorney's trust accounts.

A need was identified to update the then existing auditor's report for the audit of attorneys' trust accounts as well as the SAICA Guidance for Auditors: The Audit of Attorneys Trust Accounts in terms of the Attorney's Act, No 53 of 1979 and the Applicable Rules of the Provincial Law Societies.

The Attorneys' Trust Account Revised Transitional Report – Issued 8 August 2008 by IRBA (as found on the IRBA website www.irba.co.za under Regulated Industries) replaces the Illustrative Audit Report as contained in appendix 1 of the SAICA guide.

Withdrawal of the Guidance for Auditors: The Audit of Attorneys' Trust Accounts in terms of the Attorneys Act, No. 53 of 1979 and the Applicable Rules of the Provincial Law Societies

Once IRBA has issued guidance on the audit of Attorneys' Trust Accounts, this guide will be withdrawn fully. In the meantime, care should be taken in applying the Guide to ensure that there is compliance with the provisions of the Auditing Profession Act and current auditing standards.

Every effort is made to ensure that the advice given in this guide is correct. Nevertheless that advice is given purely as guidance to members of SAICA to assist them with particular problems relating to the subject matter of the guide and SAICA will have no responsibility to any person for any claim of any nature whatsoever which may arise out of or relate to the contents of this guide.

GUIDANCE FOR AUDITORS: THE AUDIT OF ATTORNEYS' TRUST ACCOUNTS IN TERMS OF THE ATTORNEYS ACT, NO. 53 OF 1979 AND THE APPLICABLE RULES OF THE PROVINCIAL LAW SOCIETIES

Introduction

- .01 The increase in economic, commercial and related crime over the past few years has not left the Attorneys Fidelity Fund (AFF) unscathed. Indeed the temptation for misappropriation, fraud and theft makes attorneys' trust accounts a lucrative target. In such a climate, the administrators of the AFF, the attorney's clients and financial institutions place greater demands and expectations on accountants.
- .02 As a result, the accountant members of the Joint Attorneys and Accountants Committee (JAAC) of The South African Institute of Chartered Accountants (SAICA), in consultation with the AFF, the Provincial Law Societies and the Law Society of South Africa (LSSA), have prepared this guide to assist auditors in performing engagements relating to attorneys' trust accounts. The JAAC, the AFF and Provincial Law Societies have agreed that the auditor should perform the audit of Attorneys' Trust Accounts in terms of the statement of South African Auditing Standards applicable to Special Purpose Audit Engagements (SAAS 800).
- .03 Appendix V of this guide contains the minimum procedures to be performed by an auditor engaged to perform an audit of an attorney's trust accounts. These procedures have been discussed with the Provincial Law Societies and the AFF. The auditor may perform additional procedures, if deemed necessary, based on the auditor's professional judgement.

Incorporated practices

- .04 In terms of Section 23 of the Attorneys Act, No. 53 of 1979, attorneys may, subject to prescribed conditions, conduct their practice through a private company incorporated under the Companies Act, 1973. Section 269 of the Companies Act requires every company to appoint an auditor and section 300 of the Act sets out the auditor's duties as to the financial statements and other matters. The statutory duties of an auditor in these circumstances extend beyond those set out in this guide.

General principles

- .05 The auditor is to comply with the codes of professional conduct issued by SAICA and the Public Accountants' and Auditors' Board (PAAB). Of particular relevance and importance are the ethical principles relating to integrity and objectivity. In addition, the engagement is to be staffed by personnel that have attained and maintain the technical standards and professional competence required to enable them to fulfil their responsibilities with due care, and who have complied with the continuing professional educational requirements for auditors engaged to perform audit of attorneys' trust accounts.
- .06 The auditor is to conduct the engagement in accordance with the statement of South African Auditing Standards on Special Purpose Audit Engagements (SAAS 800) and in accordance with the terms of the engagement.

Defining the terms of the engagement

- .07 Before undertaking a special purpose audit engagement, the auditor shall ensure that there is agreement as to the exact nature of the engagement, and the form and content of the report to be issued. The form and the content of the report to be issued is contained in Appendix I of this guide.

Planning

- .08 The auditor plans the work so that the engagement will be performed in an effective manner to meet the objective of the engagement.
- .09 The auditor is to obtain knowledge of the attorney's practice sufficient to enable the auditor to identify and understand the events, transactions and practices that, in the auditor's judgement, may have a significant effect on the subject matter of the engagement. This understanding is usually acquired through experience with the client or from enquiry of the client's staff, and will normally include an understanding of:
- the nature of the legal and other processes that the attorney undertakes to satisfy the client's instructions, and
 - particular factors relating to the attorney's practice and the legal profession, such as:
 - the accounting and internal control systems,
 - use of electronic banking facilities,
 - the qualifications of the accounting personnel,
 - the accounting policies applied,
 - offices opened or closed since the last report,
 - any changes in the partnership or directorships,
 - specimen signatures of new partners and other authorised signatories,
 - changes in relevant legislation affecting the legal profession, and
 - changes in rules of the Provincial Law Society.

Fraud and error

- .10 When planning the engagement the auditor is to consider the risk of fraud or error.
- .11 The auditor is to plan the engagement and perform the audit with an attitude of professional scepticism. An attitude of professional scepticism means that the auditor makes a critical assessment, with a questioning mind, of the validity of evidence obtained, and is alert to evidence that contradicts or brings into question the reliability of documents or management representations.
- .12 In planning and performing the engagement, the auditor neither assumes that management is dishonest nor assumes unquestioned honesty. Accordingly, representations from management are not a substitute for obtaining sufficient appropriate audit evidence to be able to report.

Enquiries of management

- .13 When planning the engagement, the auditor is to make enquiries of management:
- to obtain an understanding of:
 - management's assessment of the risk of fraud, and
 - the accounting and internal control systems management has put in place to address such risk,
 - to obtain knowledge of management's understanding regarding the accounting and internal control systems in place to prevent and detect fraud and error,
 - to determine whether management is aware of any known fraud that has affected the practice or suspected fraud that the practice is investigating, and
 - to determine whether management has discovered any material errors.
- .14 Since management is responsible for the practice's accounting and internal control systems, it is appropriate for the auditor to enquire of management how it is discharging these responsibilities.

- .15 The nature, extent and frequency of management's assessment of such systems and risk vary from practice to practice. In some practices, management may make detailed assessments on an annual basis or as part of continuous monitoring. In other practices, management's assessment may be less formal and less frequent. The nature, extent and frequency of management's assessments are relevant to the auditor's understanding of the practice's control environment. For example, the fact that management has not made an assessment of the risk of fraud may be indicative of the lack of importance that management places on internal control.
- .16 The internal control questionnaire contained in Appendix II is to be completed by the auditor, in consultation with management, and attached to the special purpose audit report.

Management representation letter

- .17 The auditor is to obtain written representations from management on matters relating to the attorney trust accounts when other sufficient appropriate evidence cannot reasonably be expected to exist. Even in these circumstances the auditor is to regard these representations with professional scepticism. The possibility of misunderstandings between the auditor and management is reduced when oral representations are confirmed by management in writing. Matters that might be included in a letter from management or in a confirmatory letter to management are contained in the specimen management representation letter in Appendix IV.

Reporting

- .18 The report is addressed to the proprietor/partners/directors, Provincial Law Society and the Attorneys' Fidelity Fund.

APPENDIX I

ILLUSTRATIVE REPORT OF THE INDEPENDENT AUDITOR TO THE PROPRIETOR/PARTNERS/DIRECTORS OF (INSERT THE NAME OF FIRM), THE LAW SOCIETY OF (INSERT PROVINCE) AND THE ATTORNEY’S FIDELITY FUND

We have audited the attorney’s trust accounts of *(insert the name of the attorney’s firm)* to determine whether those accounts were maintained in compliance with Section 78(1), 78(2), 78(2A), 78(3) and 78(4) of the Attorneys Act, No. 53 of 1979, and in terms of the Rules *(insert specific rule numbers)* of the *(insert the relevant province)* Law Society for the period from *(insert date)* to *(insert date)*.

The proprietor/partners/directors of *(insert the name of the attorney’s firm)* is/are responsible for ensuring that the attorney’s trust accounts are maintained in compliance with the provisions of the Attorneys Act, No. 53 of 1979 and the Rules of the *(insert the relevant province)* Law Society. The proprietor/partners/directors is/are also responsible for the implementation of accounting and internal control systems. Our responsibility is to express an opinion on whether the attorney’s trust accounts were maintained in compliance with Section 78(1), 78(2)(a) and (b), 78(2A), 78(3) and 78(4) of the Attorneys Act, No. 53 of 1979 and in terms of the Rules *(insert specific rule numbers)* of the *(insert the relevant province)* Law Society for the period *(insert date)* to *(insert date)* based on our audit.

This report covers the accounting records relating to the attorney’s trust accounts and does not extend to the financial statements of the business of *(insert the name of the attorney’s firm)* taken as a whole.

Scope

Our audit was conducted in accordance with the statement of South African Auditing Standards applicable to special purpose audit engagements and the guide issued by the South African Institute of Chartered Accountants, Guidance for Auditors: The Audit of Attorneys’ Trust Accounts in terms of the Attorneys Act, No 53 of 1979 and the Applicable Rules of the Provincial Law Societies. This guide sets out the minimum audit procedures to be performed in evaluating an attorney’s trust accounts. An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the trust accounts, and
- assessing the accounting principles used by management.

We believe our audit provides a reasonable basis for our opinion.

We have not performed any audit procedures on records or documents relating to accounting for deceased and insolvent estates and trusts. Accordingly, we do not express any opinion in this regard.

Qualification

The report is subject to the following qualifications (if none, state NIL)

.....

(Any contravention of Sections 78(1), 78(2)(a) and (b), 78(2A), 78(3) and 78(4) of the Attorneys Act, No. 53 of 1979 and any contravention of the rules of the Law Society relating to trust accounts in terms of the Rules are regarded as material and should be reported. If the report is qualified then the next heading is to be changed to “Qualified opinion” and the wording is to change to “ In our opinion, except as noted above, the ...)

Opinion

In our opinion, the attorney’s trust accounts of *(insert the name of the attorney’s firm)* for the period from *(insert date)* to *(insert date)* were maintained in compliance with Sections 78(1), 78(2)(a) and (b), 78(2A), 78(3) and 78(4) of the Attorneys Act, No. 53 of 1979 and in terms of the Rules *(insert specific rule numbers)* of the *(insert the relevant province)* Law Society.

Supplementary information

Our audit procedures indicated that:

1. the attorney’s trust accounts for the period reported on have been updated monthly and balanced at least quarterly,
2. the firm complied/ has not complied with the service fee structure (including the cash deposit fee structure where applicable) and the credit interest rates, as amended from time to time, as nationally/provincially agreed upon between the Attorneys Fidelity Fund and the firm’s bank(s),
3. the attorney’s trust accounts for the period subsequent to the period being audited, was last inspected by us on *(insert date of last inspection)*, have been written up to *(insert date)* and the trial balance was last balanced at *(insert date)*, and
4. the management provided us with the following changes in the composition of the firm which occurred during the period from *(insert date)* to *(insert date)*:
.....
5. the attorney’s principal place of practice *(insert full physical address)* is at:
.....
6. the attorney’s firm branch offices are at *(insert full physical addresses)*
.....

The following information was extracted from the audited trust accounts:

1. Reconciliation of interest earned on the attorney’s trust accounts from beginning of the period *(insert date)* to the end of the period *(insert date)*:

Amount brought forward from the previous financial year in respect of interest earned on monies deposited in terms of section 78(1) and monies invested in terms of section 78(2)(a) of the Attorneys Act, No. 53 of 1979 is	
Amount earned during the current period on monies deposited in trust banking accounts in terms of section 78(1) and monies invested in trust investment accounts in terms of section 78(2)(a) of the Attorneys Act, No 53 of 1979 is	
Amount incurred during the current period in respect of refundable bank charges (excluding VAT) is	
Amount already paid over to the Attorneys Fidelity Fund during the period under review in terms of section 78(3) of the Attorneys Act, No. 53 of 1979 is	
Amount carried over to the next financial year in respect of interest earned on monies deposited in terms of section 78(1) and monies invested in terms of section 78(2)(a) of the Attorneys Act, No. 53 of 1979 is	

2. The ratio as a percentage of total bank charges (excluding VAT) incurred during the current period to the total of interest earned during the year was _____
3. Trust liabilities/creditors and trust funds available at the year end (*insert date*) and on one other date (*insert date*), were as follows:

	At year end	Other date selected
Trust liabilities/creditors	Xxxx	Xxxx
Trust funds available in terms of:		
Section 78(1) trust money	Xx	Xx
Section 78(2)(a) investments	Xx	Xx
Section 78(2A) investments	Xx	Xx
Trust surplus/ (deficit)	Xxxx	Xxxx

Use of the report

This report is intended solely for the use of proprietor/partners/directors of the attorney's firm, the (*insert the relevant province*) Law Society and the Attorneys Fidelity Fund.

Name
Registered Accountants and Auditors
Chartered Accountants (SA)
Address
Date

APPENDIX II

INTERNAL CONTROL QUESTIONNAIRE

The Internal Control Questionnaire is to be completed by the auditor, in consultation with management.

The questions have been designed so that a “yes” answer indicates that the desired control exists. A “no” answer indicates a weakness. In the case of a “no” answer, actions to be undertaken by management are to be included in the “remarks” column. Should a question be considered to be not applicable, the reason therefore is to be noted in the “remarks” column.

Where the firm’s accounting records are computerised and/or where the firm is making use of electronic fund transfers, the auditor is to adapt the questions accordingly. For example, in the case of funds being transferred electronically, no paid cheques and/or deposit slips will be available for payments made, however, reference could be made to electronic fund transfer confirmation sheets. In the case of funds received electronically, no duplicate receipt might be available, and reference could be made to a copy of the electronic fund transfer confirmation sheet that was forwarded by the client to the firm and/or the bank statement of the firm.

Contents

A	Accounting records and general
B	Banking accounts
C	Remittances received by mail
D	Receipts and banking
E	Cheque payments
F	Bank reconciliations
G	Petty cash
H	Clients’ ledgers
I	Fees journal
J	Transfer journal
K	Trust and business journals
L	Control of prenumbered stationery
M	Computerised accounting
N	Investment of clients' funds
O	Money Laundering
P	Sign off

A. ACCOUNTING RECORDS AND GENERAL

Objective

To ensure that proper accounting records are kept and that duties of employees are clearly defined to ensure adequate control over accounting functions.

1. Are the accounting records, including lists of trust ledger balances, retained for at least five years from the date of the last entry therein?
2. Are accounting records balanced within two months after the dates on which lists of trust creditors are required to be extracted?
3. Are all accounting records written up monthly?
4. Are all accounting records kept in a neat, legible and comprehensive fashion?
5. Is the accounting department completely divorced from the cash receipts department?
6. Is an up-to-date organisation chart showing the detailed division of accounting department duties maintained?
7. Are employees' duties clearly defined?
8. Are employees' duties reasonably fixed as to responsibility so that no one person can dominate or unduly influence others not normally responsible to him/her in the performance of their work?
9. Are the duties of accounting staff rotated?
10. Are all employees required to take regular holidays and are their duties then assumed by other employees?
11. Are all employees in positions of trust covered by adequate fidelity insurance?

B. BANKING ACCOUNTS

Objective

To ensure that proper banking accounts are maintained.

1. Are separate trust and business banking accounts maintained?
2. Are there any interest-bearing trust accounts in operation?
- 2.1 If so, does the designation on each comply with sections 78(2)(b) and 78(2A) of the Attorneys Act, No. 53 of 1979?

Yes	No	Remarks

		Yes	No	Remarks
2.2	Does a responsible official ensure that interest is paid to the Provincial Law Society by 31 May each year?			
3.	Has the firm notified the Council of the Provincial Law Society of the name and address of the bank or banks at which its trust banking account or accounts are kept and any changes during the year?			
C.	REMITTANCES RECEIVED BY MAIL			
	Objective			
	To ensure that incoming moneys and mail are adequately controlled and accounted for.			
1.	Have arrangements been made for mail collected from the post office to be in a locked container?			
1.1	If not, is the mail collected from the post office by a responsible official?			
2.	Is all mail opened by at least two persons?			
3.	Are the mail openers independent of the bookkeeping and cash receipt functions?			
4.	Is there a record of all moneys received by mail?			
5.	Is this record subsequently checked with actual receipts by an independent person?			
5.1	Is this checking function adequately evidenced?			
6.	Are all cheques received made payable to the firm?			
7.	Are all cheques, money orders etc. received immediately stamped "Not Negotiable" if not already so marked?			
8.	Are post-dated cheques received adequately controlled?			
9.	Are statements of account, fee notes advice of payment slips or "letters enclosing payment" retained on a special file in support of receipts?			
10.	Do the mail openers hand all moneys received through the mail directly to the cashier?			
11.	Does a partner/director determine which moneys are trust and which are business?			
11.1	If not done by a partner/director, is the allocation checked and evidence of the check maintained?			

D. RECEIPTS AND BANKING

Objective

To ensure that all moneys are properly receipted and banked in the firm's banking accounts.

1. Is the trust account cash kept separate from business account cash?
2. Are receipts made out immediately for all amounts received?
3. Are full particulars always shown on receipts?
4. Is there proper supervision over altered or cancelled receipts?
5. Are the originals of all cancelled receipts stapled to the cancelled copies?
6. Is the issue of duplicate receipts adequately supervised?
7. Are properly printed prenumbered receipt books with an adequate number of copies used?
8. Is a register of receipt books maintained?
9. Are unused receipt books under the control of a responsible official, who has nothing to do with cash receipts?
10. Does a responsible official ensure that all receipt numbers are accounted for?
- 10.1 Is this check evidenced?
11. Does the cashier have exclusive control over cash and responsibility therefor?
12. Are satisfactory arrangements made for taking over the cashier's duties during lunch break?
13. Is there a rule that cashiers must not make entries in the accounting records?
14. Is the cash office secure against access by anybody other than the cashier?
15. Is the cashing of cheques for partners/directors or employees and clients prohibited?
16. Are all receipts banked intact daily?
17. Has the person going to the bank adequate protection while en route where considered necessary?

Yes	No	Remarks

	Yes	No	Remarks
18. Is the cash in transit adequately insured?			
19. Are receipts regularly compared with details of the bank stamped deposit slips by an independent employee?			
19.1 Is this check evidenced?			
20. Are unpaid cheques returned by the bank investigated by a responsible official other than the cashier?			
20.1 Are details of such investigation recorded?			
E. CHEQUE PAYMENTS			
Objective			
To ensure that cheques are properly made out in respect of authorised transactions and signed by authorised persons.			
Cheque preparation (trust and business)			
1. Are cheque preparers independent of the persons who:			
a) approve vouchers for payment, or			
b) sign cheques?			
2. Are cheques made payable to third parties such as banks and building societies etc. always made payable to "ABC for credit of account XYZ"?			
3. Are all trust account cheques preprinted to "order"?			
4. Are cash cheques and bearer cheques prohibited?			
5. Are all cheques preprinted with the crossing "Not Transferable"?			
6. Are cancelled cheques marked "Cancelled" and kept available for subsequent inspection?			
Cheque signing			
1. Are all cheques accompanied by properly authorised vouchers when presented for signature?			
2. Do vouchers contain evidence of examination and approval by the persons signing cheques, as well as those authorising the vouchers for payment?			
3. Are all supporting documents marked "Paid" and identified by cheque number at time of signature to prevent re-use?			

4. Are the authorised signatories independent of:
 - a) voucher preparation and approval for payment,
 - b) cheque preparation,
 - c) cash receiving,
 - d) petty cash,
 - e) ordering functions, and
 - f) bookkeeping.
5. Are all cheques required to be signed by two signatories?
6. If two signatories are required, are supporting vouchers submitted to both signatories?
7. Is the signing of cheques in blank prohibited?
8. Are cheques mailed promptly after they have been signed?
9. Are cheque requesters, preparers and signatories required to satisfy themselves, in respect of cheques drawn on the trust banking account, that the payment will not cause that client's trust account to go into debit?
- 9.1 If so, is the carrying out of this function evidenced?
- 9.2 Have arrangements been made to identify and correct such occurrences?
10. Are all transfers from the trust to the business banking account only requested and authorised after the transfer journal entry has been made (see J).
11. Where an electronic funds transfer system is in operation, are all transfers from trust accounts supported by written authority signed by two cheque signatories?

F. BANK RECONCILIATIONS

Objective

To ensure that bank reconciliations are properly carried out on a regular basis.

1. Are bank reconciliations prepared monthly on all accounts by employees independent of cash receipt and payment functions?

Yes	No	Remarks

	Yes	No	Remarks
2. Are bank statements received unopened, directly from the bank, together with paid cheques etc. by the reconciler, who maintains physical control over the statements until the reconciliation is complete?			
3. Do bank reconciliation procedures include the following:			
3.1 A comparison of paid cheques with the cash book as to names, dates and amounts?			
3.2 Accounting for numerical sequence of paid cheques?			
3.3 An enquiry into any contra items?			
3.4 Regular follow-up on long outstanding cheques?			
3.5 A follow up of outstanding deposits?			
3.6 A review at month end of inter-bank transfers for propriety of such transfers?			
3.7 Comparing deposit slips (on a test basis) in detail with receipts and the receipts cash book?			
4. Are bank reconciliations reviewed and approved by a responsible independent employee promptly upon completion thereof?			
4.1 If so, is such check evidenced?			
G. PETTY CASH			
Objective			
To ensure that petty cash disbursements and receipts are properly carried out and supervised.			
1. Is the petty cashier independent of cash receipts, payments and bookkeeping functions?			
2. Does the petty cashier have exclusive control over the petty cash and responsibility therefor?			
3. Are all payments supported by properly authorised petty cash slips and vouchers (where applicable)?			
4. Are all paid slips and vouchers marked "Paid" to prevent re-use?			
5. Has a reasonable limit been set for individual payments?			
6. Is the float fixed at a reasonable level having regard to the level of expenditure?			

	Yes	No	Remarks
7. Is the petty cash book periodically examined and signed by a responsible official?			
8. Is the cash counted and agreed to the petty cash book at irregular intervals?			
8.1 If so, is this check evidenced?			
9. Is the petty cash on the imprest basis?			
10. When the float is reimbursed, are the petty cash book and vouchers presented to the cheque signatory?			
H. CLIENTS' LEDGERS			
Objective			
To ensure that clients' ledgers are properly written up, balanced and reviewed on a regular basis.			
1. Are the clients' ledgers maintained by persons that are independent of cash receipts and payments and the bookkeeper responsible for the nominal ledger?			
2. Are lists of balances extracted at least quarterly?			
3. Are the balances extracted clearly and legibly recorded in the ledgers?			
4. Are the lists of balances kept for at least five years?			
5. Do the lists of balances clearly indicate the clients' names and ledger folios?			
6. Are the lists totalled and agreed to the control accounts kept in the nominal ledger?			
7. Is the total of the lists also agreed to the total of the trust bank balance, trust savings accounts and trust cash on hand?			
8. Are the balances mentioned in 6 and 7 above recorded in a register and signed by a partner/director?			
9. Are statements sent to clients within a reasonable time of completion of the work?			
10. Does a responsible official compare statements with the clients' ledger with regard to details, amounts and dates?			
11. Is there a system to ensure that statements to clients are not suppressed?			
12. Are disputes on fees with clients and queries on statements all dealt with by a partner/director?			

	Yes	No	Remarks
13. Are all adjustments to clients' accounts properly authorised by a partner/director?			
14. Are all entries to clients' accounts supported by entries in the accounting records of prime entry?			
15. Are all postings to the ledgers clearly referenced to indicate their source?			
16. Are all "suspense" or " sundries" accounts analysed each month?			
16.1 Does a responsible official review these analyses to ensure that debits for one client are not being offset against credits of a different client?			
16.2 Is such check evidenced?			
17. Are all amounts owing to the firm, which are held in trust, withdrawn and transferred to the business account.			
I. FEES JOURNAL			
Objective			
To ensure that fees are properly accounted for.			
1. Are fee notes and credit notes prepared from actual records of services performed?			
2. Are fee notes and credit notes prenumbered and treated as controlled stationery?			
3. Are extensions and additions of fee notes and credit independently checked?			
4. Are fee notes and credit notes entered in the fees journal in numerical order and are all numbers accounted for?			
5. Are credit notes authorised by a responsible official other than the bookkeeper?			
6. Is the fees journal periodically examined and signed by a partner/director?			
J. TRANSFER JOURNAL			
Objective			
To ensure that all transfers between trust and business ledger accounts and the equivalent transfer of funds from the trust to the business banking accounts are strictly controlled.			
1. Are all entries to clients' business and trust ledger accounts entered up to date before a transfer journal entry is made?			

		Yes	No	Remarks
2.	In respect of all entries in the transfer journal (except for reverse transfers) does the person making the entry ensure that:			
2.1	each business account debit balance is equal to or greater than the amount transferred, and			
2.2	each trust account credit balance is equal to or greater than the amount transferred?			
3.	Is it clear from the transfer journal which clients' accounts have been debited or credited?			
4.	Is the transfer journal totalled at the end of each batch of entries before a trust cheque is drawn to be deposited in the business banking account?			
5.	Is each total cross-referenced to the trust cheque drawn?			
6.	Does the person signing the transfer cheque ensure that the amount agrees with the total in the transfer journal and clearly record next to such total the fact that a cheque has been drawn?			
7.	Are reverse transfer entries recorded in the journal as soon as a debit balance on a client's trust account is discovered?			
8.	Are reverse transfer entries clearly distinguishable from normal entries in the transfer journal?			
9.	Except where debit balances on trust account are discovered while normal transfers are being processed, is a cheque immediately drawn on the business banking account and deposited to the trust banking account for the amount of the reverse transfer?			
9.1	If debit balances are discovered while normal transfers are being processed, is the amount of the reverse transfer arising therefrom deducted from the first cheque to be drawn? (This should only be done if the transfer cheque is going to be drawn without delay).			
K.	TRUST AND BUSINESS JOURNALS			
	Objective			
	To ensure that all journal entries are properly accounted for and authorised.			
1.	Is it clear that transfers between trust accounts must be made by way of an entry properly recorded in the trust journal?			
2.	Are all journal entries authorised by a responsible official other than the bookkeeper?			

3. Does this authorisation consist of either a signature or adequate reference to supporting documentation or both where possible?
4. Is a suitable explanatory narration recorded in the journal for each entry?
5. Is it clear from the journal entry which accounts have been debited and credited?

L. CONTROL OF PRENUMBERED STATIONERY

Objective

To ensure security over stock and use of stationery.

1. Is the following stationery consecutively prenumbered and numerically and physically controlled?
 - 1.1 Receipt books
 - Business
 - Trust
 - 1.2 Cheque books
 - Business
 - Trust
 - 1.3 Fee notes
2. Are all orders for the printing of controlled stationery authorised by a responsible official?
3. Is the physical control of such stationery vested in a responsible official or a person divorced from the effecting or recording of transactions?
4. Is the controlled stationery kept in a safe place to which only the authorised custodian has access?
5. Is a proper register maintained that records full details of receipts and issues of such stationery?
6. Do recipients of the stationery sign the register for receipt thereof?
7. Are unused and in-use stocks of stationery as well as order and delivery quantities checked at irregular intervals against the register by an independent responsible official?
 - 7.1 If so, is such check evidenced?

Yes	No	Remarks

8. Are all issues made in strict numerical sequence?
9. Does the custodian only issue controlled stationery to persons that have been authorised to requisition such stationery?
10. Are used stationery forms and books checked from time to time for completeness of usage by the stationery custodian and such check recorded in writing in the stationery register?
11. Are used stationery forms checked (or test checked if a full check is not feasible) for completeness of usage and of numerical sequence at irregular intervals against the register by an independent responsible official?
- 11.1 If so, is such check evidenced?
12. Is proof of usage of previously issued stationery required from persons seeking to draw new controlled stationery?
13. Are controls exercised over trust and business stationery the same in all respects?
14. Is all controlled stationery printed especially for the firm on protected paper to prevent unauthorised stationery from being used and to highlight unauthorised alterations?
15. Is trust stationery clearly distinguishable from business stationery?

M. COMPUTERISED ACCOUNTING

Objective

To ensure that computerised accounting systems are properly controlled to ensure the validity, accuracy and completeness of accounting data.

The risks of confidentiality and fraudulent transactions should be considered in which case the control procedures should pertain to both the physical security of the reports and the information resident on the hard drive. Where the attorney's computer system is linked through electronic funds transfer with any bank, an additional risk is created and adequate security measures should be in place.

Data capture

1. Are all source entries independently totalled prior to being captured?
2. Is a permanent record kept in a register of these batch totals together with a description of the entries processed?

Yes	No	Remarks

		Yes	No	Remarks
3.	Are those totals checked against the batch total after processing?			
3.1	Are these computer batch totals also permanently recorded in the same register?			
4.	If these totals do not agree, is the error searched for immediately and rectified before any further entries are processed?			
4.1	Does the register record these differences, the cause thereof and how they have been rectified?			
5.	Are all batch print-outs retained and permanently filed in sequence?			
6.	Are all source documents or source entries:			
6.1	sequentially numbered?			
6.2	processed in sequence?			
7.	Where computer postings are made directly from the source document (i.e. where there is no book of prime entry), are all prime documents sequentially numbered, batched and permanently filed?			
8.	Is it clear from the ledger accounts the exact source of each entry, whether it be from a book of prime entry or from source documents?			
9.	Is it clear from the ledger accounts the type of each entry posted, e.g. cash, journal, petty cash, fees, etc.?			
10.	Are all audit trails sequentially numbered and permanently filed in sequence (either all together or according to nature of entries)?			
11.	Are all batch print-outs clearly marked with a heading indicating the period involved, the nature of the entries and the source of the entries, including batch numbers where applicable?			
12.	Are lists of business and trust balances extracted at regular intervals (at least quarterly but preferably monthly)?			
13.	Is the total of these lists agreed to the control accounts kept as part of the computerised system?			
14.	Are the balances on the computer control accounts agreed monthly by an independent responsible official with the control accounts in the nominal ledger?			
15.	Is a permanent record maintained of the monthly balances detailed in 12, 13 and 14?			

	Yes	No	Remarks
Security of information/data resident on the computer			
16.			Does the computerised system automatically produce an extraction of all trust client ledger balances? Is a reconciliation done to ensure the completion of the extraction?
17.			Does the extract record client names?
18.			Does the computerised system generate an audit trail of the following: a) Transfers between the trust accounts and business accounts. b) Transactions processed to the trust accounts (both debits and credits). c) All deleted, amended and/or inactive trust accounts?
19.			Are the reports above reviewed periodically by a senior person?
20.			Are audit reports generated daily, weekly or monthly and can such audit trails be regenerated? (i.e. if the information reported on an audit trail cannot be reprinted at any point in time there is a risk associated with the loss of such audit trails.)
21.			Can the printing or generation of audit reports be suppressed through a parameter in the application?
Security over programs (where programs are developed or amended in-house)			
22.			Are there defined responsibilities regarding testing, documenting and approving the implementation or modification of computer programs? (Where computer programs are maintained by an external third party there is less risk involved than where they are maintained in-house.)
23.			Is access to the source code of the computer programs and the compilers adequately restricted to prevent unauthorised changes to the program?
24.			Can users of the system create their own reports, based on their parameters, of transactions relating in particular to trust accounts (less reliance may be placed on self-specified programs).
25.			Can modifications be made to the live/production programs or can they only be made in a test environment with appropriate change controls over the move to the production environment?
26.			Are backups of the current versions of the production programs created and stored in a safe alternative location?
Security over data access			
27.			Is there effective security against unauthorised access to programs and data files?

	Yes	No	Remarks
28. Are there controls to ensure that computer programmers do not have access to the live data files?			
29. Is access restricted by an effective password control			
a) Is there a formal password standard?			
b) How often are passwords changed?			
c) Are users free to assign their own passwords?			
d) Are measures taken to ensure passwords are random rather than systematic values such as birth dates or family names?			
e) Are measures taken to ensure that passwords are not displayed on terminals or reports?			
f) Are user IDs suspended after a specified number of unsuccessful attempts at access?			
g) Do terminals deactivate after a specified period of inactivity?			
h) Is access to highly sensitive functions or powerful utilities restricted by dual passwords?			
Backup			
30. Is there a formal backup procedure that is followed?			
31. Are data files backedup regularly?			
32. Are multiple versions of the backup maintained (e.g. Grandfather, Father, Son)?			
33. Are backup files stored in a safe alternative location?			
34. Are backup files frequently tested to ensure that they are not corrupt?			
35. Is confidential hard drive information removed when computers are maintained/repaired/upgraded?			
N. INVESTMENT OF CLIENTS' FUNDS			
Objective			
To ensure that clients' investments are properly authorised and accounted for and held under strict security arrangements.			
Authorisation			
1. Where trust moneys are invested on behalf of a client, is there a procedure to ensure that the client's prior written consent to the specific investment has been obtained?			
Physical control over investments			
2. Are the securities under the physical control of a responsible person?			
3. Are the securities inaccessible to persons other than those responsible for their safekeeping?			

	Yes	No	Remarks
4. Are adequate precautions taken to protect the client's title to investments (e.g. by registering them in the name of the client or, in the case of those registered in the name of nominees, obtaining declarations of trust)?			
5. Are documents transferring the ownership of investments executed by a responsible official:			
a) to whom this authority has been formally delegated, and			
b) who is not responsible for the safekeeping of investments?			
Detailed records			
6. Is a register of all investments held for clients maintained showing:			
a) specific description and identification,			
b) name in which registered,			
c) amounts,			
d) who has signing powers, and			
e) dates invested and disinvested.			
7. Are there adequate procedures to ensure that all funds invested for clients are recorded in the register (i.e. control account)?			
8. Is a regular review made by a responsible official of the register to ensure that it is up to date and accurate?			
8.1 If so, is this check evidenced?			
8.2 Is the review either performed or checked by persons other than those that:			
a) maintain the register,			
b) maintain the related control account,			
c) are responsible for custodianship functions.			
Custodian of securities			
9. Is the function of custodian of securities carried out by a person other than those that:			
a) perform cash functions,			
b) maintain the related control account, and			
c) maintain the detailed records of investments?			
Verification			
10. Is the accuracy of the detailed records (register) of investments verified by a responsible official at least annually:			
a) by physical inspection of related certificates, bonds or other documents, or			
b) by direct confirmation for investments held by banks or others for safekeeping or as collateral?			
10.1. If so, are such checks evidenced?			

11. Is the verification carried out by persons other than those who:

- a) perform cash functions;
- b) maintain the detailed records of investments;
- c) maintain the related control account; or
- d) perform custodianship functions.

O. MONEY LAUNDERING

1. Have manuals, policies and procedures been developed and implemented to ensure compliance with provisions of anti-money laundering legislation?

P. SIGN OFF

Yes	No	Remarks

This questionnaire was completed on *(insert date)* by *(insert name of auditor)*, in consultation with *(insert name of representative of attorney's firm)*.

To be signed by the auditor

Date

I *(insert name of representative of attorney's firm)* confirm that the representations made to the auditor are true and correct.

To be signed by the representative of the attorney's firm

Date

APPENDIX III

SPECIMEN ENGAGEMENT LETTER

The following letter is for use as a guide in conjunction with the statement of South African Auditing Standards SAAS 210, Terms of Audit Engagements and this guide, and may need to be varied according to individual requirements and circumstances.

(Auditors letterhead)

(Date)

(To proprietor/partner(s)/director(s))
(Address)

Dear Sir(s)

We are pleased to confirm acceptance of our engagement as auditor of *(insert name of attorney's firm)* in terms of Rule *(insert rule number)* of the Rules of the Law Society of *(insert province)*. This letter sets forth our understanding of the terms and objectives of our engagement, and the nature and scope of the services that we will provide.

Responsibilities of the auditor

We have been engaged to audit and report on whether the Attorney's trust accounts were maintained in compliance with section 78(1), 78(2)(a) and (b), 78(2A), 78(3) and 78(4) of the Attorneys Act, No. 53 of 1979 and in terms of the Rules *(insert specific rule numbers)* of the *(insert the relevant province)* Law Society.

Our engagement will be conducted in accordance with the statement of South African Auditing Standards SAAS 800, the Auditor's Report on Special Purpose Audit Engagements.

Our audit will include:

- examining, on a test basis, evidence supporting the amounts and disclosures in the trust and investment accounts, and
- assessing the accounting principles used by management.

We have agreed to perform the minimum procedures set out in Appendix II of the guide issued by The South African Institute of Chartered Accountants, Guidance for Auditors: The Audit of Attorneys' Trust Accounts in terms of the Attorneys Act, No 53 of 1979 and the Applicable Rules of the Provincial Law Societies and any other procedures deemed necessary based on our professional judgement.

Responsibilities of the proprietor/partner(s)/director(s)

The establishment and maintenance of an internal control structure, necessary to provide reasonable assurance that adopted policies and prescribed procedures are adhered to for the prevention of errors and irregularities, including fraud and illegal acts, rest with you as partner(s)/director(s). However, should you at any time require a specific investigation for the purpose of providing affirmation with regard to the operation of any aspect of your internal control structure, or for any other purpose, this would be undertaken at your request.

We look forward to full co-operation with your staff, and we trust that they will make available to us whatever records, documentation and other information requested in connection with our engagement.

Reporting to proprietor/partners/directors

We shall report to the proprietor/partners/directors, normally in writing, any significant weaknesses in, or our observations on, the internal control structure and other areas that come to our attention during the completion of our internal control questionnaire or performance of the audit that we consider should be brought to the proprietor/partners/directors attention.

Representations by proprietor's/partner's/director's

As part of our normal audit procedures, we will request the proprietor/partners/directors to provide written confirmation of oral representations that we have received from the proprietor/partners/directors during the course of our audit.

Fees

Our fees, which will be billed as work progresses, are based on the time required by the individuals assigned to the engagement plus out-of-pocket expenses. Individual hourly rates vary according to the degree of responsibility involved and the experience and skills required.

Acknowledgement and acceptance

Once it has been agreed, this letter will remain effective until it is replaced. Please sign and return the attached copy of this letter to indicate that it is in accordance with your understanding of the terms of the engagement, including the specific procedures that we have agreed to perform.

Yours faithfully

Name
Registered Accountants and Auditors
Chartered Accountants (SA)

Acknowledged on behalf of (*insert name of attorney's firm*)

.....

Name and title
Date

APPENDIX IV

SPECIMEN MANAGEMENT REPRESENTATION LETTER

The following letter is for use as a guide in conjunction with the considerations outlined in this guide, and will need to be varied according to individual requirements and circumstances. Additional points will be included in the case of incorporated practices. Reference should be made to the statement of South African Auditing Standards SAAS 580, Management Representations.

(Attorney letterhead)

(Date)

(To auditor)

(Address)

Dear Sir(s)

We confirm that we have performed such assessment as we considered necessary to enable us to conclude that the relevant sections of the Rules of the Law Society of (*insert province*) and the Attorneys Act, No. 53 of 1979 regarding the accounting records, including the trust accounts, have been complied with.

We confirm to the best of our knowledge and belief, the following representations made to you during the performance of the agreed procedures for the year ended (*insert date*) for purpose of reporting to the Law Society in terms of the Rules of the Law Society of (*insert province*) and the Attorney's Fidelity Fund:

- Our responses to the Internal Control Questionnaire reflect the true status of our internal control system.
- All clients' files, accounting records and related data have been made available to you.
- Accounting records have been kept as required by the Rules of the Law Society of (*insert province*).
- All trust money received has been promptly banked in properly designated, separate trust bank accounts.
- Money has only been transferred from the trust bank account to the business bank account in respect of fees and disbursements due and only when permitted, in terms of the Rules of the Law Society of (*insert province*).
- At no stage during the year under review, did the total amount of money in trust bank accounts, trust investment accounts and trust cash not equal the total amount of trust creditors, other than fees that were transferable, but have not yet been transferred.
- The firm complied with all the Rules relating to investment practices.
- All interest received has been properly accounted for and paid over to the Law Society of (*insert province*) for the account of the Attorney's Fidelity Fund or the investor in terms of Sections 78(1), (2) and (2A) of the Attorneys Act, No. 53 of 1979.
- A separate system of accounting for deceased and insolvent estates was maintained.*
- The disclosure of facts relating to any frauds or possible frauds known to us that may have affected the firm.
- The following changes occurred in the composition of the firm during the year under review: (*Insert list indicting names of partners/directors that joined the firm and names of partners/directors that resigned from the firm*)

Yours faithfully

.....
Proprietor/Senior Partner/Director

.....
Date

.....
Senior Financial Officer*

.....
Date

* Delete if not applicable

APPENDIX V

MINIMUM PROCEDURES TO BE CARRIED OUT BY AN AUDITOR ENGAGED TO PERFORM THE AUDIT OF AN ATTORNEY'S TRUST ACCOUNTS

Introduction

The abbreviations used in this guide:

- “C” Rules of the Law Society of the Cape of Good Hope
- “T” Rules of the Law Society of the Northern Provinces
- “N” Rules of the Kwazulu-Natal Law Society
- “O” Rules of the Law Society of the Orange Free State

It should be noted that a reference in bold to the various rules of the Provincial Law Societies indicates that, in terms of the rules, the auditor is specifically required to report on compliance with that specific rule. Copies of the rules of the Provincial Law Society are to be obtained from the clients.

Adaptation

Where the firm's accounting records are computerised and/or where the firm is making use of electronic fund transfers, the auditor is to adapt the minimum audit procedures accordingly. For example, in the case of funds being transferred electronically, no paid cheques and/or deposit slips will be available for payments made, however, reference could be made to electronic fund transfer confirmation sheets. In the case of funds received electronically, no duplicate receipt might be available and reference could be made to a copy of the electronic fund transfer confirmation sheet that was forwarded by the client to the firm and/or the bank statement of the firm.

MINIMUM AUDIT PROCEDURES	C	T	N	O
Internal controls				
1. Complete, in consultation with management, the internal control questionnaire contained in Appendix II to the guide issued by The South African Institute of Chartered Accountants (SAICA) Guidance for Auditors: The Audit of Attorneys' Trust Accounts in terms of the Attorney's Act, No 53 of 1979 and the applicable rules of the Provincial Law Societies. The results of the questionnaire are to be taken into account when performing the audit.				
Accounting records				
2. Ensure that the accounting records are kept at the main and, or branch offices and enquire if the prescribed retention period of 5 years is adhered to.	13.8	68.4	20(4).4	16.4
3. Examine the accounting records to ascertain whether or not the accounting records separate the records of:	13.5.3	68.1.3	20(1)(c)	16.1.3
• the firm's financial transactions relating to its practice,	13.7	68.3	20(3)	16.3
• particulars and information of trust account transactions:	78 (4)	78 (4)	78 (4)	78 (4)
– all moneys received, held or paid by the attorney for the account of any person				
– of all money invested by the attorney in a trust savings account or other interest bearing account		77 A5.1	17(5)(a)	16C5.1
– and of all interest on money so invested that is paid over or credited to the attorney	13.5.3	68.1.3	20(1)(c)	16.1.3
• assets and liabilities.	13.5.1	68.1.1	20(1)(a)	16.1.1
4. Ensure that the firm has opened a separate trust bank account at a bank in the Republic, and that the Provincial Law Society has been informed of the name and address of the bank and any changes during the period.	78 (1) 13.15.1	78 (1) 69.8.1	78 (1) 21(8)(a)	78 (1) 16A 8.1
5. On a test basis, agree receipts and payments on the business account with bank deposit books or slips or cheques in order to ascertain whether any trust items have been erroneously dealt with as business items.	13.10	68.6.1	20(6)(a)	16.6
Deposits/Receipts				
6. On a test basis, check that moneys received in advance to cover fees and/or disbursements are treated as trust moneys.	13.13.6 78(1)	69.4 78(1)	21(4) 78(1)	16A.4 78(1)
7. On a test basis, agree copies of trust receipts with authentic proof of deposit, to ensure that all trust receipts are being banked intact and by not later than the first banking day on which it might reasonably be expected that such money would be banked.	13.13.1	69.1	21(1)	16A.1

8. Check the sequence of the trust receipt numbers and agree with the stationery register.	general 13.13	general 69.1	general 21(1)	general 16A.1
9. Check that the originals of cancelled receipts are attached to the copies thereof.	general 13.13	general 69.1	general 21(1)	general 16A.1
10. On a test basis, check receipts to clients' covers (matter files) and authenticate the correctness of the ledger account credited.	general 13.13	general 69.1	general 21(1)	general 16 A.1
Reconciliation of trust ledger				
11. Check that: <ul style="list-style-type: none"> the firm has extracted lists of clients' trust ledger balances at least quarterly during the period, the lists of balances have been totalled, the totals of such lists have been agreed or reconciled to the total of trust funds, and the lists are retained for a period of five years. 	13.14.1 13.14.1 13.14.1 13.14.3 general	69.7.1 69.7.1 69.7.1 69.7.3 general	21(7)(a) 21(7)(a) 21(7)(a) 21(7)(c) general	16A.7.1 16A.7.1 16A.7.1 16A.7.3 general
12. At the closing date and at least one other date, agree on a test basis the individual balances from the trust ledgers with the quarterly balance book or quarterly schedules, ensuring that the selected balances are clearly indicated in each ledger account.	13.14.2	69.7.2	21(7)(b)	16 A 7.2
13. At the closing date and the date selected in procedure 12 above, identify all trust debit balances, and determine the cause thereof.	13.13.4	69.3.2	21(3)(b)	16 A3.2
14. At the closing date and the date selected in procedure 12, agree the total of the trust ledger credit balances with the aggregate of: <ul style="list-style-type: none"> balances in trust bank accounts, balances in savings accounts in terms of section 78(2)(a) and 78(2A), and trust cash on hand. 	13.13.3. 13.14.1 13.20.2.1	69.3.1 69.7.1 70.4.2.1	21(3)(a) 21(7)(a) 21A(4)(b)	16 A3.1 16 A7.1 16B.4.2
15. Obtain certificates of the balances referred to in procedure 14 direct from the financial institutions at the closing date and the date selected in procedure 12.	13.15.2	69.8.2	21(8)(b)	16 A8.2
16. Check that all trust cash on hand, included in the trust funds at the closing date and the date selected in procedure 12, is represented by trust receipts issued prior to that date, and that such moneys were deposited on the next banking day after receipt.	general	general	general	general
17. Scrutinise the lists of trust ledger balances at the closing date and the date selected in procedure 12, and enquire into any ledger accounts in the name of the firm.	general	general	general	general

18. Scrutinise trust ledger balances at the closing date and the date selected in procedure 12, and identify balances that are not in the names of individuals/trust creditors. Investigate balances in the name of the firm, suspense accounts and unidentified deposits. Check activity for unusual or abnormal items.	general	general	general	general
19. Cast the lists of balances on the closing date and the date selected in procedure 12.	general	general	general	general
20. On a test basis, cast the accounts in the trust ledgers.	general	general	general	general
21. On a test basis, check posting to the trust ledger from all sources, scrutinising the ledger account tested, ensuring that entries therein appear to be relevant.	general	general	general	general
Withdrawals/payments/transfers from trust accounts				
22. On a test basis, check that amounts withdrawn from the trust investment account are deposited promptly in the trust bank account.	13.13.2	69.2	21(2)	16A.2
23. On a test basis, check that withdrawals from the trust bank account are made only:				
• to or for a trust creditor (validity), and	13.13.7(1)	69.5.1	21(5)(b)	16A.5.1
• as transfers to its <i>business</i> bank account.	13.13.7(2)	69.5.2	21(5)(b)	16A.5.2
24. On a test basis, agree payments from the trust bank account with:				
• paid cheques (ensuring that all such paid cheques were also made payable to or to the order of a payee specifically designated), and	13.13.8	69.6.1	21(6)(a)	16 A.6
• vouchers, requisitions or clients' covers (matter files) (some of the latter to establish authority for payment and the accuracy of the corresponding debit),	13.13.9	69.6.2	21(6)(a)	16 A5.3
• ensuring that the payment for the disbursement has physically been made by the firm.	13.13.9	N/A	21(6)(a)	16.A5.3
25. Scrutinise a representative batch of paid cheques looking for payees that would not in the normal course of events be the recipients of the attorney's trust cheques. Examples could be payments in favour of the local butcher or supermarket.	general	general	general	general
26. On a test basis, agree transfers from the trust to the business accounts through the cashbook with appropriate schedules of transfers or the transfer journal. If transfers are made in respect of fees, ensure that the amount transferred corresponds to identifiable and properly recorded fees.	13.13.7.2 13.13.9 13.10.3	69.5.2 69.6.2 68.6.2	21(5)(b) 21(6)(b) 20(6)(b)	16 A5.2 16 A 5.3 16.7

27. Check the reconciliation between the cashbooks and the bank statements at the closing date and at least one other date, ensuring that items appearing on such reconciliations, for both the business and the trust account, have been cleared subsequently.	general	general	general	general
28. Scrutinise the bank statements for at least one week after the closing date and the date selected in procedure 27 for unpaid cheques and/or negotiable instruments previously deposited in the trust bank account and for extraordinary debits.	general 13.10.2	general 68.6.1.2	general 20(6)(a)(ii)	general 16.6.2
29. Compare (on a test basis) the list of trust balances shown on the trust accounts in the ledgers of the attorney's firm with the respective ledger accounts at the year end and on 20..... and report that after examining the bank statements of the attorney's firm for such period as we deemed necessary, (being not less than one week) following each of the dates mentioned above, the circumstances in which any negotiable instruments were deposited in the trust banking account but had not been met, were considered to be satisfactory.	13.13.3 and 13.13.4	69.3	21(3)(a) and 21(3) (b)	16A.3.1 and 16A.3.2
30. Examine all "reverse" transfers and, if these were passed to correct debit balances on trust ledger accounts, record details for reporting to the Provincial Law Society.	general 13.13.4	general 69.3.2	general 21(3)(b)	general 16A.3.2
Investment practices				
31. Check that formalities and procedures relative to clients' trust investments in terms of sections 78(2A) have been followed.	13.16	69.9	21(9)	16 A. 9
32. Check that an investment mandate is available from each client whose moneys are invested.	20	77 A.3	17(3)	16 C.3
33. Check that each client is supplied with a schedule reflecting all relevant details of his/her investment.	20	77 A.4	17(4)	16 C.4
34. Check that money market transactions are in terms of the rules of the Provincial Law Society.	20	77 A.7	17(6)	16 C7
35. Check that where investments have been made in: <ul style="list-style-type: none"> • unlisted shares/debentures in a company other than a subsidiary of a listed company, or • money market type of transactions, or • loans without adequate security the client's written authorisation was obtained before the investment was made.	20	77A.8	17(7)	16 C.8

MVA/Third party claims				
36. On a test basis, check that the accounting statement to the client indicates capital proceeds of claims received and cost contributions from the Road Accident Fund (RAF).	general	general	general	General
37. Agree the documentation referred to in procedure 35 with documentation from the RAF, i.e. the discharge document.	general	general	general	General
38. On a test basis, check vouchers in support of disbursements, e.g. police report, ambulance report, payments to the doctor, etc.	general	general	general	General
39. On a test basis, inspect documentation supporting the attorney's fees. If a contingency fee arrangement exists, the contingency agreement should be inspected.	general	general	general	General
40. On a test basis, inspect documentation to support the payment to the client, e.g. paid cheques, ensuring that cheques were not made paid to bearer or cash. In the case of electronic fund transfers, observe payment instructions from the client and compare with the details of the account to which the funds were transferred.	general	general	general	General
Conveyancing				
41. On a test basis, inspect the original deed of sale to understand the terms and conditions of the transactions, and check compliance with the terms and conditions of the transaction.	general	general	general	General
42. On a test basis, check that the pro forma costs, e.g. VAT, transfer duty, and attorney's fee, etc. have been deposited in the trust account.	general	general	general	General
43. On a test basis, check that the attorney's fees are only raised in the accounting records on the date of registration.	general	general	general	General
44. On a test basis, check that disbursements have been made in accordance with statutory requirements.	general	general	general	General
45. On a test basis, check that proper accounting to both buyer and seller took place, including any interest on trust investments.	general	general	general	General
46. On a test basis, inspect paid cheques to buyer and/or seller.	general	general	general	General
General procedures				
47. Report any instances where access to accounting records was deemed necessary, but was denied.	13.18 13.20.2.3	70.2 70.4.2.3	21A(2) 21A(4)(b)	16B.2 16B4.2
48. Test check client's files for supporting vouchers and compare file transactions with ledger transactions.	general	general	general	General

49. Report any material queries regarding the accounting records that have been raised with the firm, but which have not been dealt with satisfactorily.	13.20.2.2.	70.4.2.2	21A(4)(b)	16B4.2.
50. Examine records of savings accounts maintained in terms of section 78(2)(a), and check deposits and withdrawals with trust cashbook, particularly immediately before and after the closing date and at one other date. Ensure interest has been duly paid to the Provincial Law Society within three months of the firm's year-end.	78(3)	78(3)	78(3)	S78(3)
51. Examine the trust account bank statement for the whole year. Ensure that any interest credited has been paid to the Provincial Law Society by not later than the last day of May of each year. (Note : Attorneys may, at their discretion, deduct trust account bank charges from interest earned.) In addition, consider the reasonableness of the interest rate, i.e. whether or not the rate is market related. (Note: If the interest rate is not considered reasonable, point out to the client that his/her refund of trust account bank charges and audit fees from the Attorney's Fidelity Fund will be detrimentally affected.)	78(3) general	78(3) general	78(3) general	S 78(3) general
52. Check that trust account bank charges are not debited to the trust account, but to the business account or to a separate bank account set up for this purpose.	general	general	general	general
53. Check that savings or other interest-bearing accounts are designated properly to comply with the Attorneys Act, No. 53 of 1979, viz. "(the firm) – Trust account - section 78(2)(a) or section 78(2A) Act 53 of 1979".	78(2)(b) 78(2A)(b)	78(2)(b) 78(2A)(b)	78(2)(b) 78(2A)(b)	S78(2)(b) S78(2A)(b)
54. Identify transfers that have been made directly from the trust account of one client to the trust account of another client, and ensure that there are valid reasons for these transfers.	general	general	general	general
55. Examine all material entries in suspense, sundry or miscellaneous accounts, ensuring that there are valid reasons for such entries.	general	general	general	general
56. Examine the accounting records for the period subsequent to the date on which the agreed procedures have been performed; report the date at which the latest trial balance was extracted and balanced; the latest date that lists of clients' balances were extracted and agreed to nominal ledger control accounts (if any) and to the trust funds.	general	general	general	general
57. Cast appropriate accounting records for the periods examined.	general	general	general	general