

Matrix of Trust Account Circumstances in respect of Client Money and how they are covered in APES 310 ED and NZICA Standard

Scenario	Examples	APES 310 ED Client Monies	NZICA PS 2 Client Monies
<p>1. Money received from the Client and to be disbursed at the direction of the Client to a third party.</p>	<p>Money advanced by the Client for costs associated with the incorporation of a company, the preparation of a trust deed or other services.</p> <p>Money held or received in advance from a Client to meet future liabilities, including Client's income tax.</p> <p>Process transactions such as payroll and other administration expenses on behalf of the Client.</p> <p>A Client goes overseas for an extended period of time, and deposit funds into the trust account and then authorize the Member to pay various bills on behalf of the Client, such as ATO payments, repairs to rental properties, insurances, credit cards.</p> <p>An amount representing the accumulated provision for LSL on sale of a business kept in the Member's trust account until the employee took their LSL or terminated employment.</p>	<p>This scenario is essentially addressed by Sections 7 and 9 of APES 310 ED – which respectively address the receipt and disbursement of Client Monies.</p> <p>Paragraphs 7.1 and 9.1 of APES 310 ED are in most cases directly relevant to the examples cited.</p>	<p>Paragraph 48.</p>
<p>2. Operating Client Bank Accounts.</p>	<p>Being a signatory on a Client Bank Account and making payments based on instructions received from the Client. E.g. payroll, administrative expenses and liabilities to the tax authorities.</p>	<p>Principles relating to this scenario are addressed in numerous paragraphs. Paragraph 6.1 refers to the need to obtain authority and cautionary principles are</p>	<p>Paragraph 36.</p>

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		<p>contained in paragraphs 4.6, 4.10 and 4.11 of APES 310 ED. Paragraphs 4.1 and 4.4(b) also reminds Members to protect Client interests when they have the authority to operate Client Bank Accounts.</p>	
<p>3. Client Money received which is payable to the Client.</p>	<p>Client tax refunds received from the tax authorities.</p> <p>Moneys collected on behalf of a Client such as rental revenue.</p>	<p>Principles relating to this scenario are contained in section 7 – Receipt of Client Monies.</p>	<p>Paragraphs 37 to 38 and A18 to A19.</p>
<p>4. Investing Client Monies received from the Client or on behalf of a Client as the Client directs.</p>	<p>Receiving Money from a Client and then investing as the Client directs.</p> <p>Providing financial advisory services for a Client and then investing money as per the financial plan or investment strategy.</p>	<p>Specific guidance on this scenario is provided in paragraph 7.6 although the authority to perform these types of tasks is likely to require applying the principles contained in sections 7 and 9.</p> <p>With the second example, a Member will also need to consider their dual role in the context of section 3.</p>	<p>Paragraph 13.</p> <p>Paragraphs 40 and A20.</p> <p>Paragraphs 55 to 60 also contain restrictions on transactions with Associated Finance Entities.</p>
<p>5. Client Money being handled by member as part of an Administration.</p>	<p>Operating Client Bank Accounts and Trust Money in connection with insolvency or bankruptcy engagements.</p> <p>Urgent banking prior to a liquidator’s bank account being opened.</p> <p>Funds where ownership is disputed, such as reservation of title arguments, proceeds of sale of assets where the ownership of the</p>	<p>This scenario requires potential consideration of numerous sections – most relevantly sections 6 to 9 of APES 310 ED along with specific legislative requirements in relation to external administrations.</p>	<p>Paragraphs 12 and A3.</p> <p>General application of paragraphs 36 to 60.</p>

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	<p>assets is disputed, indemnity funds etc</p> <p>Funds received under the GEERS program for on forwarding to employees.</p> <p>In some cases the Insolvency Practitioner will open a separate trust account in the name of the liquidation, in which case there is an exemption from audit, however in the majority of cases the funds will be transacted through the firm's trust account.</p>		
<p>6. Client monies received in the form of documents of title to Money.</p>	<p>Promissory notes.</p>	<p>This scenario is a specific application of the principles contained in section 7 of APES 310 ED. In particular, the requirements of paragraph 7.9 need to be adhered to.</p>	<p>Paragraphs 42 and A21.</p>
<p>7. Client Monies received in cash or by cheque or through the redemption or payment of any instrument.</p>	<p>Maturing investments. To be returned to the Client or reinvested as the Client directs.</p>	<p>Application of the principles contained in section 7 – in particular paragraph 7.1.</p>	<p>Paragraphs 37 to 39 and A18 to A19.</p>
<p>8. Interest earned on client monies.</p>	<p>Interest bearing accounts held on behalf of the Client.</p>	<p>Paragraph 5.4(b) of APES 310 ED covers the situation involving interest bearing trust accounts. For other analogous situations the principles of sections 7 and 9 would provide the same outcome as paragraph 5.4(b).</p>	<p>Paragraphs 46 and A22.</p>
<p>9. Bank and other charges on the trust account.</p>	<p>Bank and other charges on the Trust Account are payable by the Member in Public Practice and not from Client Monies or from interest earned on those Monies.</p>	<p>This scenario is a specific application of the principles contained in section 8 of APES 310 ED – the specific</p>	<p>Paragraph 52.</p>

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		requirements of paragraphs 8.4 and 8.5 are relevant here.	
10. Apply Client Monies to loans or investments.	Money to be applied as the Client directs.	Section 9 of APES 310 ED – in particular paragraph 9.1.	Generally, paragraphs 48 to 51. Paragraphs 40 and A 20 are also relevant in relation to investments.
11. Client makes a prepayment of fees to the Member in Public Practice.	Refers to prepaid professional fees for the Member’s services, where no request for payment, in the form of an account or otherwise, has been made to the Client.	This scenario is addressed in the definition of client monies which includes fees paid in advance (refer section 2) and paragraph 9.7 of APES 310 ED which sets out the requirements for withdrawing professional fees from a trust account.	Paragraph 16(e) – definition of client monies. Paragraphs 48(b), 49 and 50.
12. Withdrawal of Client Moneys for fees and disbursements.	A Member who has access to Client Moneys withdraws Moneys to cover his or her expenses based on the written authority of the Client. Clients will request that we use the trust account to clear major transaction in circumstances where there is conflict and doubts on capacity to pay etc. In circumstances such as this, it is crucial to get very clear instructions.	Specific application of paragraph 9.7 of APES 310 ED. The second example is essentially a disbursement – section 9.	Paragraphs 48(b), 49 and 50.
13. Members who deal with Client Monies in the course of providing investment advice or investment brokering services.	Members in Business who provide financial advisory services and investment management services to clients.	Refer scenario 4. Also refer paragraph 1.9 in scope and application.	Refer scenario 4.
14. Members acting as trustees or	Client may appoint a member as Trustees to	Refer to obligations contained in	Paragraphs 21 to 24 and A6 to

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under a power of attorney.	administer a trust. Alternatively a Member may hold a power of attorney on behalf of a Client. Acting in the capacity of an trustee of a deceased estate.	paragraphs 4.7 to 4.9 of APES 310 ED.	A8.
15. Trust money held or received in a form which is not capable of being deposited with a Financial Institution.	Promissory notes, debentures?	Refer scenario 6.	Refer scenario 6.
16. Money laundering or suspected illegal activities.	There may be circumstances where a Member is told to handle fund transfers or to transact in Client Moneys in a manner which the Member may suspect is in connection with money laundering or illegal activities.	Refer to specific obligations contained in paragraph 4.10 and 4.11.	Paragraphs 25 to 26 and A9 to A11.