

## Desktop Review – Client Monies reporting requirements in other jurisdictions

### Introduction

APESB Technical Staff have performed a desktop review to gather information on the monitoring and reporting requirements on client monies applicable in different jurisdictions.

Technical staff have considered the relevant requirements in New Zealand, the United Kingdom (UK), and South Africa. The respective professional body in each country has established standards. It provides guidance regarding a member or firm's professional responsibilities when holding, receiving, or otherwise dealing with monies on behalf of clients:

- New Zealand Institute of Chartered Accountants (NZICA) – New Zealand;
- Institute of Chartered Accountants in England and Wales (ICAEW) – UK;
- Chartered Institute of Public Finance and Accountancy (CIPFA) – UK; and
- South African Institute of Chartered Accountants (SAICA) – South Africa

Relevant requirements identified in the desktop review are set out in the table below.

Note that Technical Staff considered the requirements set out in professional and ethical standards only. We have not investigated whether legislative or regulatory requirements in these jurisdictions have any requirements in relation to the monitoring and reporting requirements for handling client monies

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Desktop Review – Client Monies reporting requirements in other jurisdictions

Information on the reporting requirement of client monies	Technical Staff Comments
<p><b>1. New Zealand Institute of Chartered Accountants (NZICA) – New Zealand</b></p>	
<p>There have been requirements in New Zealand relating to Client Monies from at least 1995. PS-2 <i>Client Monies and Members' Trust Accounts</i> (PS-2) was first issued in June 1995, having formed part of the New Zealand Code of Ethics prior to that date.</p> <p>PS-2 provides guidance regarding a member or firm's professional responsibilities when holding, receiving, or otherwise dealing with monies on behalf of clients, including the operation of client bank accounts in New Zealand.</p> <p>Relevant paragraphs in the extant PS-2 on audits of client monies are as follows:</p> <ul style="list-style-type: none"> <li>• <i>A member or firm must <u>appoint an independent auditor</u> to audit the member's activity in respect of client monies:</i> <ul style="list-style-type: none"> <li>a) <i>at the Institute's request within 10 working days of that request; or</i></li> <li>b) <i>for the purposes of paragraph 58(e).</i></li> </ul> </li> </ul> <p><i>The auditor must be a member who is a Chartered Accountant and holds a Certificate of Public Practice. (Paragraph 69)</i></p> <p>Paragraph 58(e) relates to the conditions that must be in place for a member or firm to apply client monies to loans or investments in an associated finance entity</p> <ul style="list-style-type: none"> <li>• <i>The auditor undertaking the audit of a member or firm's activity in respect of client monies under paragraph 69 must express an opinion, in respect of the client monies and/or operation of client bank accounts, as to whether client monies and/or client bank accounts have been properly maintained, recorded and accounted for by the member or firm in compliance with this Standard. The audit opinion provided to the member or firm must also be forwarded to the Director of Practice Review of the Institute within 15 working days after completion of the audit. (paragraph 71)</i></li> <li>• <i>The period for and extent of audit required under paragraph 69(a) will be specified by the Institute as part of the Institute's request. The Institute may request an audit on receiving a complaint about the member or firm's handling of client monies or client bank accounts, or for any other reason which the Institute believes warrants requesting an audit. (paragraph A26)</i></li> </ul> <p>The New Zealand Regulatory Board (NZRB) are in the process of revising PS-2. The proposed revisions will enhance the extant assurance requirements (listed above) and include monitoring and reporting requirements for client money activities. The relevant proposed paragraphs include:</p> <ul style="list-style-type: none"> <li>• <b><i>A member in public practice shall ensure that the firm's system of quality management includes:</i></b> <ul style="list-style-type: none"> <li>a) <b><i>administration of the firm's trust account(s) being overseen by a partner;</i></b></li> <li>b) <b><i>effective policies and procedures that ensure that client monies are properly received (including client due diligence procedures), safeguarded (including against retrospective alteration and deletion and unauthorised access/use of bank accounts) and accounted for (including client instructions, timeliness and contingency procedures);</i></b></li> </ul> </li> </ul>	<p>The extant PS-2 requires oversight of client monies as part of the review of the quality management system, with any issues being reported to NZICA. At that point, NZICA may request an audit to be performed.</p> <p>The recently proposed revisions to PS-2 enhance the requirements for the review performed as part of the quality management system, including a requirement to perform an annual inspection of all client money activities performed by each partner.</p>

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<ul style="list-style-type: none"><li>c) <i>policies and procedures that require annual review of:</i><ul style="list-style-type: none"><li>a. <i>each engagement which includes client monies activities to determine whether there are any reasons not to continue with the client monies activities;</i></li><li>b. <i>the trust account balances for each client to ensure that the firm only holds client monies that is reasonably necessary to discharge the purpose for which the monies were held or received (see paragraph R3.9);</i></li><li>c. <i>the register of signing authorities for client bank accounts (see paragraph R5.6) to ensure that partners of the firm only hold signing authorities on a client bank accounts that remain reasonably necessary for the purpose for which the signing authority was provided (see paragraph R4.5).</i></li></ul></li><li>d) <i>monitoring activities that include at least annual inspection of trust account reconciliations and a sample of engagements that include client monies activities for each partner that performs client monies activities; and</i></li><li>e) <i>immediate remedial action for any identified issues (including compliance with paragraph R3.27). (paragraph R5.2)</i></li><li>• <b><i>A member in public practice shall prepare documentation on a timely basis in accordance with this standard that appropriately documents their client monies activities. The documentation shall be sufficient to enable another member who performs client monies activities to understand the nature, timing and extent of the activities performed and by whom. (paragraph R5.4)</i></b></li><li>• <i>The documentation required by paragraph R5.4 should include, as applicable:</i><ul style="list-style-type: none"><li>a) <i>the nature, timing and extent of the client monies activities performed by the member in public practice including the client’s instructions and the records specified in paragraphs R5.5 – R5.8 below.</i></li><li>b) <i>all information concerning the member’s professional relationship with the client in respect to client monies activities including sufficient information to evidence that the member has:</i><ul style="list-style-type: none"><li>a. <i>complied with all applicable laws and regulations;</i></li><li>b. <i>identified any threats to the fundamental principles of the code and how those threats have been evaluated and addressed; and</i></li><li>c. <i>otherwise, complied with this standard, and any other applicable technical and professional standards (including policies and procedures and monitoring and remediation processes established in accordance with PS-1 Quality Management). (paragraph R5.2)</i></li></ul></li></ul></li></ul>	

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<p><b>2. Institute of Chartered Accountants in England and Wales (ICAEW) – UK</b></p>	
<p>The <a href="#">ICAEW Clients' Money Regulations</a> apply in relation to all UK and Ireland offices of firms and, subject to regulation 29, to the principals of such firms. A firm must receive or hold clients' money only in accordance with these regulations.</p> <p>The current regulations first came into force on 1 January 2004. The regulations dated 1 April 1992 remain applicable after this date only in respect of actions or omissions or acts prior to the coming into force of these regulations.</p> <p>Relevant paragraphs in ICAEW Client money regulations on review of systems to comply with client monies regulations as follows:</p> <p><b>Returns and reports</b></p> <p>27. <i>Principals must:</i></p> <ul style="list-style-type: none"> <li>a. <i>confirm that their firm meets the requirements of these regulations and shall supply such evidence as these regulations and/or Council may require to support such confirmation; and</i></li> <li>b. <i>ensure that their firm conducts a review at least annually, to consider whether systems it has maintained have been adequate to enable it:</i> <ul style="list-style-type: none"> <li>i. <i>to comply with these regulations;</i></li> <li>ii. <i>to carry out the reconciliations in accordance with Regulation 25; and</i></li> <li>iii. <i>to prepare any return required under Regulation 27(a) and to confirm its compliance with these regulations.</i></li> </ul> </li> </ul> <p><i>Where possible the review should be conducted by a principal who is not involved in the handling of clients' money. Significant breaches of these regulations are required to be reported by the firm to ICAEW or its nominee. (paragraph 27)</i></p> <p><i>To enable Council to ascertain whether or not these regulations are being complied with, it:</i></p> <ul style="list-style-type: none"> <li>a. <i>may appoint a person or persons to inspect the books and records of the firm or any of its principals. Notice given by Council or on behalf of Council, the firm or any of its principals shall be signed by the Chief Executive, or his nominee; or</i></li> <li>b. <i>may require the firm to provide an <u>Independent Accountant's Report</u>;</i></li> </ul> <p><i>and it shall be the responsibility of the firm and its principals to make books and records available for inspection in accordance with such a notice and to provide an Independent Accountant's Report in accordance with such a requirement. (paragraph 28).</i></p>	<p>Technical Staff note that principle 27 of the ICAEW's client money regulation states that an <u>annual review</u> shall be conducted by a principal who is not involved in handling client monies of the firm to ensure the adequacy of the system controls to comply with regulations.</p> <p>An assurance engagement may be conducted at the request of the Council.</p>

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<p><b>3. Chartered Institute of Public Finance and Accountancy (CIPFA) – UK</b></p> <p>The CIPFA <a href="#">Client's money regulations</a> are applicable to all CIPFA members in the UK and Ireland when they receive or hold the Client's Money. Principle 27 of the regulation requires an annual review to ensure that systems are maintained adequately to enable compliance with the regulations.</p> <p>Relevant paragraphs in CIPFA reporting requirements on client monies are as follows:</p> <p>a <i>Members must:</i></p> <p>(a) <i>confirm annually through the Institute's Practice Assurance Annual Return that they meet the requirements of these Regulations and shall supply such evidence as these Regulations and/or Council may require to support such confirmation; and</i></p> <p>(b) <i>review at least annually whether systems that they have maintained have been adequate to enable them:</i></p> <p>(i) <i>to comply with these Regulations;</i></p> <p>(ii) <i>to carry out the reconciliations in accordance with Regulation 25; and</i></p> <p>(iii) <i>to prepare any return required under Regulation 27(a) and to confirm its compliance with these Regulations;</i></p> <p><i>Except in the case of a sole practice, the review should be conducted by a partner who is not involved in the handling of Clients' Money.</i></p> <p><i>Significant breaches of these Regulations are required to be reported by the Member to the Institute or its nominee.</i></p>	<p>Technical Staff noted that principle 27 of the CIPFA Client money regulation states that the <u>annual review</u> should be performed to ensure the adequacy of the system controls to comply with regulations by a partner who is not involved in the handling of Clients' Money.</p>
<p><b>4. South African Institute of Chartered Accountants (SAICA) – South Africa</b></p> <p>Section 350 of the <a href="#">Code of Professional Conduct</a> of the SAICA offers required application materials for members when managing client monies.</p> <p>Relevant sections in the SAICA Code of Professional Conduct on client monies are as follows:</p> <p><b>R350.6 SA</b> <i>If a professional accountant is entrusted with client monies, which come into the professional accountant's possession or under the professional accountant's control and for which the professional accountant is responsible to account to a client, the professional accountant shall:</i></p> <p>(a) <i>Not refer to such client monies as being "in trust" or in a "trust account" as this could be misleading;</i></p> <p>(b) <i>Maintain one or more bank accounts with an institution or institutions registered in terms of the Banks Act, 1990 (Act 94 of 1990), that are separate from the professional accountant's own bank account;</i></p>	<p>SAICA requires professional accountants to maintain records and perform reconciliations in a timely manner to ensure all transactions involving client monies are maintained appropriately.</p>

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<p>(c) <i>Appropriately designate such bank accounts. This includes a general bank account in the professional accountant's name where all client monies are held (such as ABC's Client Account), or a specific account named and operated per relevant client;</i></p> <p>(d) <i>Deposit client monies without delay to the credit of such client account;</i></p> <p>(e) <i>Maintain such records as may reasonably be expected to ensure that the client monies can be readily identified as being the property of the client, for example, detailed bookkeeping and being able to supply the client with an analysis of the account/s;</i></p> <p>(f) <i>Perform a reconciliation between the designated bank account and the client monies ledger account/s; and</i></p> <p>(g) <i>Not hold client monies indefinitely unless specifically allowed by laws and regulations. Professional accountants are encouraged to hold client monies for a limited period, depending on the professional service provided.</i></p> <p><b>R350.8 SA</b> <i>A professional accountant shall apply appropriate measures to protect the client assets.</i></p> <p><b>350.8 A1 SA</b> <i>Examples of measures may include:</i></p> <p>(a) <i>If the professional accountant administers a large number of client accounts that hold client monies the professional accountant may utilise an umbrella account with sub-accounts for each client;</i></p> <p>(b) <i>If the professional service requires the professional accountant to be entrusted with client monies for an unusually long period and the professional accountant is not the auditor or assurance provider, the professional accountant shall request the client to open a separate bank account and provide the professional accountant with appropriate power of attorney or signatory rights over the account;</i></p> <p>(c) <i>Before taking custody of client assets the professional accountant shall consider whether the firm's indemnity and fidelity insurance is sufficient to cover incidents of fraud or theft; and</i></p> <p>(d) <i>Where a formal engagement letter is entered into covering the professional service involving custody of client assets, the engagement letter shall address the risks and responsibilities relating to such client assets.</i></p>	